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THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume V, 1932

(20th September to 30th September, 1932)

FOURTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY, 1932



NEW DELHI
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1933

Legislative Assembly.

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THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

MR. R. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen :

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SIR ABDUR RAHIM, K.C.S.I., KT., M.L.A.

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MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

Secretary :

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

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LEGISLATIVE ASSEMBLY.

Tuesday, 20th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

QUESTIONS AND ANSWERS.

RECRUITMENT OF SIKHS UNDER THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

463. *Sardar Sant Singh : (a) How many appointments carrying pay more than Rs. 200 per mensem were made under the Imperial Agriculture Council and of what nature ?

(b) How many Muhammadans, Hindus, Anglo-Indians and Sikhs were taken in each case ?

(c) Why was no Sikh recruited ?

Mr. G. S. Bajpai : (a) and (b). The Honourable Member presumably means the number of persons appointed to posts and not the number of appointments created. A statement, based on this assumption showing the number and nature of appointments and the representation of different communities, is laid on the table.

(c) Does not arise.

Statement showing the number of persons appointed to posts in the Imperial Council of Agricultural Research.

Between June, 1929, when the Council was constituted, and 31st August, 1932, thirty-six persons were appointed on the administrative and research sides of the Imperial Council of Agricultural Research.

The nature of the appointments is as follows :—

Superior (officers)	..	7 appointments.
Ministerial	..	14 appointments.
		(1 Superintendent permanent gazetted and 1 Superintendent Acting gazetted, 11 permanent non-gazetted and one officiating non-gazetted appointments.)
Technical	..	15 (8 gazetted and 7 non-gazetted temporary posts on the research side).

The representation of different communities is as follows :—

Superior (Officers') appointments.

Muslims	..	3	These refer to the post of Vice-Chairman, held by a Moslem twice on an officiating basis, and to the post of Secretary, held by a Moslem permanently from 1st June, 1929 to 8th April, 1932.
Hindus	..	2	One of these refers to the post of Secretary, to which a Hindu has been appointed since 9th April, 1932.
Europeans	..	2	
Anglo-Indians and Sikhs	..	Nil.	

Ministerial appointments.

Muslims	..	..	4 (includes one acting Superintendent).
Hindus	..	..	9 (includes one Superintendent now appointed as Secretary).
Anglo-Indians	..	..	<i>Nil.</i>
Sikhs	..	..	1

Technical appointments.

Muslims	..	..	3
Hindus	..	..	11
Anglo-Indians and Sikhs	..	..	<i>Nil.</i>
European	..	..	1

APPOINTMENT OF SIKH ASSISTANTS IN THE DEPARTMENT OF INDUSTRIES AND LABOUR AND PUBLIC WORKS BRANCH.

464. ***Sardar Sant Singh** : (a) Is it a fact that there is not a single Sikh working as an Assistant of the Upper Division in the Department of Industries and Labour and Public Works Branch ?

(b) Is it a fact that the great paucity of the Sikhs in these offices in these grades has many times been brought to Government's notice, and do Government propose to take a sufficient number of Sikhs in future vacancies ? If not, why not ?

The Honourable Sir Frank Noyce : (a) No ; one Sikh is working as Assistant in a temporary vacancy.

(b) The answer to the first part of the question is in the negative. Vacancies in the grade are filled partly by promotion and partly by fresh recruitment. In respect of the latter, Government propose to adhere strictly to the present policy regarding the representation of minority communities.

APPOINTMENT OF SIKHS IN THE RAILWAY BOARD.

465. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) How many temporary, officiating and permanent vacancies occurred in the ministerial establishment of the Railway Board since 1st January, 1931 and how were these filled up ?

(b) How many Muhammadans, Hindus and Sikhs were taken on each occasion ?

(c) Do Government propose to take Sikhs in the future vacancies ? If not, why not ?

Mr. P. R. Rau : (a) and (b). During the period in question, the number of temporary vacancies which were filled by recruitment from outside was six. In these vacancies, five Hindus and one Muslim were appointed. Officiating vacancies were filled from permanent or temporary staff already in the office. Two permanent vacancies were filled by staff in the office of whom one was a Hindu and the other a Muhammadan.

(c) For vacancies in the near future, there are 24 men on the waiting list of retrenched staff. These will have to be given the opportunity of employment according to their standing in the list, irrespective of communal considerations, before any fresh recruitment is undertaken.

RECRUITMENT OF SIKHS IN THE SURVEY OF INDIA DEPARTMENT.

466. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) Will Government please refer to question No. 580 answered on 17th September, 1928 and lay on the table a statement showing the number of appointments—temporary and permanent—made in the Survey of India Department as E. A. C. since 1st January, 1928, and the number of vacancies offered to Sikhs ?

(b) Do Government propose to take steps to safeguard the interest of Sikhs and order their recruitment in sufficient number in future vacancies ? If not, why not ?

Mr. G. S. Bajpai : (a) A statement giving the information required is laid on the table.

(b) When recruitment to these posts is reopened, the claims of Sikhs will be considered in accordance with the standing orders on the subject of communal representation in this service.

Statement showing the number of persons appointed and Sikhs appointed to Class II of the Survey of India since the 1st January, 1928.

Year.	Total No. of appointments made.	Number of Sikhs appointed.
1928	<i>Nil</i>	<i>Nil</i> .
1929	9, including 2 promoted from the Upper Subordinate Service	1
1930	} <i>Nil</i>	<i>Nil</i>
1931		

RECRUITMENT OF SIKHS IN THE SUBORDINATE ACCOUNTS SERVICE OF CERTAIN OFFICES.

467. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : (a) What is the total number of permanent and temporary appointments in the Subordinate Accounts Service in the following offices and how many of them are Hindus, Muhammadans and Sikhs :

- (1) Accountant General, Central Revenues,
- (2) Auditor General,
- (3) Central Accounts Office, Public Works Department,
- (4) Director of Railway Audit,
- (5) Director of Commercial Audit,
- (6) Accountant General, Posts and Telegraphs,
- (7) Deputy Accountant General, Posts and Telegraphs, Delhi, and
- (8) Audit Office, Indian Stores Department ?

(b) If Sikhs are not adequately represented, do Government propose to take steps to provide the Sikhs in future vacancies in these offices ? If not, why not ?

The Honourable Sir Alan Parsons : (a) The Central Accounts Office, Public Works Department, and the Office of the Director of Commercial Audit have been abolished. I lay on the table a statement containing the information required by the Honourable Member in respect of the other offices.

(b) Appointments to the Subordinate Accounts Service, with rare exceptions, are made as a result of a competitive examination open to clerks in Audit Offices. The communal distribution in this Service, therefore, depends necessarily on the ability of the individual to pass the examination ; and Government do not propose to interfere with this excellent system.

Name of Offices.	Sanctioned strength of Subordinate Accounts Service.		Hindus.	Muhammadians.	Sikhs.	Parsees.	Total.
	Perma- nent.	Tem- porary.					
Auditor General	23	1	24	..	..	..	24
Accountant General, Central Revenues.	25	2	25	2	..	..	27
Director of Railway Audit ..	8	1	8	1	..	..	9
Audit Officer, Indian Stores Department.	13	..	13	..	..	..	13
Accountant General, Posts and Telegraphs.	8	..	8	..	..	..	8
Deputy Accountant General, Posts and Telegraphs, Delhi.	19	..	15	2	1	1	19

RETRENCHMENT OF SIKHS IN THE MILITARY ACCOUNTS DEPARTMENT.

468. ***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : What was the total number of Sikhs as against Hindus and Muhammadans in the Military Accountant General's Department on 1st January, 1931 and what is the present strength under the same categories at present ? How many Sikhs have been retrenched ? Why has this been done ? Are they already in a very small number ?

The Honourable Sir Alan Parsons : On 1st January, 1931, the numbers were, Hindus 3,584, Muslims 381 and Sikhs 254. They are now 2,962, 323 and 203, respectively. Sixteen Sikhs have been retrenched, including nine who offered to retire voluntarily under the retrenchment terms. In carrying out retrenchment in the Military Accounts Department, there has been no departure from the orders laid down by Government in regard to the maintenance of the pre-retrenchment proportions of the various communities.

RETRENCHMENT OF THE MINISTERIAL ESTABLISHMENT OF THE CIVIL SECRETARIAT.

469. *Mr. D. K. Lahiri Chaudhury (on behalf of Sardar Sant Singh) : (a) Will Government please state how many men belonging to the ministerial establishment serving in the Civil Secretariat who have put in more than 25 years' service have been retrenched, and specify the number by Departments ? Where such persons have been retained, will Government please state on what grounds ? Will Government state their names and special qualifications ?

(b) Is it a fact that in certain offices some persons of over 25 years' service have been retained whilst in others such persons, without regard to their hardships, have been mercilessly thrown out ? If so, why ? Are Government prepared to hold an inquiry into this matter ? If not, why not ?

The Honourable Sir Alan Parsons : (a) I lay on the table a statement giving the information asked for in the first sentence of this question. The order of retrenchment in the Secretariat was, first, men over 55, secondly, men with 30 years' service and, thirdly, selected persons of over 25 but with less than 30 years' service. In accordance with these orders, it is not, as the Honourable Member's question seems to suggest, a question of discharging all persons with 25 years' service and over but of selecting certain individuals from among that category for discharge.

(b) No.

Statement showing the number of men with over 25 years' service in the Civil Secretariat who have been retrenched, excluding voluntary resignations or retirements.

Department.	Number of men with over 25 years' service who have been retrenched, excluding voluntary resignations.
Central Board of Revenue	1
Legislative Assembly Department	3
Army Department	9
Foreign and Political Department	3
Financial Adviser, Military Finance	12
Department of Industries and Labour	1
Finance Department	2
Other Departments	<i>Nil.</i>
Total	31

RECRUITMENT OF SIKH PORTERS IN THE DELHI RAILWAY MAIL SERVICE.

470.***Mr. D. K. Lahiri Chaudhury** (on behalf of Sardar Sant Singh) : Will Government please state the number of temporary and permanent porters' vacancies that occurred in the Delhi R. M. S. since January, 1932 and how many of these were given to Sikhs as against Hindus and Muhammadans ? If none, why ?

The Honourable Sir Frank Noyce : There were 96 leave vacancies, in which 13 Hindus, five Muhammadans and nine Sikhs officiated from time to time, and one permanent vacancy, in which a Sikh is officiating.

Dr. Ziauddin Ahmad : Do I understand the Honourable Member to say that there were five Muhammadans as against nine Sikhs ?

The Honourable Sir Frank Noyce : There were 96 leave vacancies, in which 13 Hindus, five Muhammadans and nine Sikhs officiated from time to time, and one permanent vacancy in which a Sikh is officiating.

Mr. M. Maswood Ahmad : What is the percentage of Sikh population to the total population of India ?

The Honourable Sir Frank Noyce : I should like to have notice of that question.

Dr. Ziauddin Ahmad : Take it from me that it is less than one per cent., or in its neighbourhood.

RECRUITMENT OF SIKH INFERIOR SERVANTS IN THE IMPERIAL SECRETARIAT.

471.***Sardar Sant Singh** : (a) Is it not a fact that the claims of the Sikhs are ignored in the grades of Record Sorters, Daftries, Jemadars and peons employed in the Government of India Secretariat ?

(b) What is the total strength of Record Sorters, Daftries, Jemadars and peons in each of the Departments of the Secretariat and how many of them are Hindus, Muhammadans, Christians and Sikhs ?

(c) Are Government prepared to issue orders for the recruitment of Sikhs in each and every Department in each grade in the future vacancies ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) No. My information is that Sikhs rarely apply for these posts.

(b) The attention of the Honourable Member is invited to the statement laid on the table in reply to starred question No. 742, on the 9th March, 1932.

(c) Sikhs are not debarred from appointment to the posts in question and if they were to come forward I have no doubt that the Departments would be prepared to employ them. Such posts are not reserved for any community and Government see no reason for the issue of orders as suggested.

Mr. Gaya Prasad Singh : Do Government propose to consider the question of communal representation in the jails and lunatic asylums also. (Laughter.)

The Honourable Mr. H. G. Haig : I think the communities secure appropriate representation without any action on the part of Government.

Mr. N. M. Joshi : Why do not Government propose to lay down any rules for these important posts of inferior servants ?

The Honourable Mr. H. G. Haig : Our special rules for recruitment relate to the clerical service and do not extend below that service.

Mr. N. M. Joshi : May I know why it should not extend below the clerical service ?

The Honourable Mr. H. G. Haig : Because it is not considered a matter of great public importance which community a record sorter or a daftri belongs to.

Mr. N. M. Joshi : Is it a fact that these posts are generally given to persons belonging to the working classes and there is no need for communal representation.

The Honourable Mr. H. G. Haig : I hope my Honourable friend is not suggesting a further extension of communal feeling to the working classes.

Mr. N. M. Joshi : May I know whether Government is aware that there is no communal feeling amongst the working classes and therefore Government does not feel the need for laying down any communal proportion.

The Honourable Mr. H. G. Haig : I have already said that the rules have not been extended to the inferior establishment.

RECRUITMENT OF SIKHS IN THE THIRD DIVISION OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH OFFICE.

472. ***Sardar Sant Singh :** (a) How many temporary and permanent vacancies in the Third Division occurred in the Imperial Agriculture Research Council Office since 1st January, 1931 and how many were given to Sikhs ?

(b) If no Sikh has so far been recruited in any of these vacancies, will Government please state the reason why ? Is it a fact that Sikhs are conspicuous by their absence in this grade ?

Mr. G. S. Bajpai : (a) Since January, 1931, there have been 28 temporary vacancies in the Third Division of the office of the Imperial Council of Agricultural Research. Six of these appointments were not filled as a measure of economy ; of the remaining 22, three were given to Sikhs. Only one post has become permanently vacant since this date and, as a measure of economy it has been abolished from March, 1932.

(b) Does not arise.

APPOINTMENT OF A PERMANENT SUPERINTENDENT IN THE FINANCE DEPARTMENT.

473. ***Sardar Sant Singh :** (a) Is it a fact that a post of Superintendent was permanently filled in the Finance Department in June, 1931 ?

(b) Is it also a fact that the Finance Department were about to issue orders in June, 1931 asking Departments not to fill posts permanently in view of retrenchment ?

(c) Will Government please state if the Finance Department had no intention in June, 1931, of making any retrenchments themselves ?

(d) If the answer to part (c) be in the negative, will Government please state why they filled a post of Superintendent permanently in June, 1931? Were they not aware then that orders for stoppage of permanent appointments were to be issued?

The Honourable Sir Alan Parsons : (a) Yes.

(b) No.

(c) Yes, but not among Superintendents.

(d) As was explained yesterday in reply to part (a) of Mr. N. M. Joshi's question No. 398, the orders regarding not confirming Government servants in posts substantively vacant, if these were likely to be retrenched, were not issued till the 24th September, 1931.

OFFICE ADMINISTRATION OF THE FINANCE DEPARTMENT.

474. ***Sardar Sant Singh :** (a) Will Government please state if the post of Chief Superintendent in the Finance Department is not intended for the seniormost Superintendent? Who is the seniormost Superintendent?

(b) Will Government please say if it is not the intention in future to fill the post of Chief Superintendent by promotion of the seniormost Superintendent?

(c) Is it a fact that Government contemplate abolishing the post of Chief Superintendent on the retirement of the present incumbent and entrusting the office administration to the Personal Assistant and Stenographer to the Finance Secretary?

(d) Is it not a fact that only in the Army Department the office administration is in the hands of the Personal Assistant and Stenographer to Army Secretary? Have any Civil Departments adopted the system? Is the system in the Army Department satisfactory and are Government aware that there have been complaints about it?

(e) Will Government please state why it is proposed to adopt the system in vogue on the Army side in the Finance Department as well?

The Honourable Sir Alan Parsons : (a), (b) and (c). No.

(d) I understand that in the Army Department one of the Superintendents carries out, in addition to his normal work, the duties of Personal Assistant to the Secretary and also such duties in connection with the establishment as were ordinarily assigned to a Registrar in the Secretariat when that appointment was in existence some years ago. The system is not in force in other Departments of the Secretariat but I understand that it has proved satisfactory: and inquiries made showed that any complaints made were without foundation.

(e) Does not arise.

COMPULSORY RETIREMENT OF GOVERNMENT SERVANTS WITH 25 YEARS' SERVICE.

475. ***Sardar Sant Singh :** (a) Is it a fact that the question of retiring men with 25 years' service is under the consideration of Government?

(b) If so, have Government considered whether the proposal will affect adversely Government servants who have gained experience of work ?

The Honourable Sir Alan Parsons : (a) No.

(b) Does not arise.

PROMOTIONS TO INSPECTORS AND SELECTION GRADE APPOINTMENTS IN THE POSTAL DEPARTMENT.

476. ***Sardar Sant Singh :** (a) Will Government be pleased to state whether or not it is a fact that promotions to Inspectors and selection grade appointments in the Postal Department were made strictly in accordance with seniority with due regard to efficiency before the issue of Director General's Circular No. 46, dated 3rd March, 1932 ?

(b) Will Government please state whether in the lowest selection grade examination held in 1929, meant for senior officials only, a number of junior officials who were otherwise not eligible, were allowed to appear at the said examination, because of their having been selected to appear at the old examination for Inspectors and Head Clerks (since abolished), in preference to senior men ?

(c) Is it a fact that no distinction existed between the senior and junior officials who had passed the lowest selection grade examination in 1929 and promotion was made according to seniority with due regard to efficiency till the issue of Director General's Circular No. 16, dated 18th August, 1930 ?

(d) Is it a fact that the senior candidates protested against Director General's Circular No. 16, dated 18th August, 1930, which laid down that every fifth vacancy should be given to a junior candidate ?

(e) Are Government aware of the assurance conveyed by the Director General, Posts and Telegraphs in his letter No. 256-S./31, dated 23rd June, 1931, explaining that the new rules do not seriously affect the prospects of the senior officials, as the percentage was only 20 per cent. ?

(f) Is it a fact that there is a practice in all other Government Departments of granting promotions according to seniority and are Government aware that the practice of giving every fifth vacancy to a junior candidate seriously prejudices the rights of senior qualified officials in the Post Office ?

Mr. T. Ryan : (a) No. The Honourable Member is referred to the reply given to Mr. Muhammad Muazzam Sahib Bahadur's starred question No. 664 in this House on the 7th March, 1932.

(b) Yes. This was allowed by special order.

(c) Yes, during the period from the date of the publication, in March, 1930, of the results of the first Lowest Selection Grade examination until the issue of the Director General's circular referred to, when the system was revised, with effect from the 1st April, 1930.

(d) Yes.

(e) The correct number of the Director General's letter referred to is S.A.-256-3/31. In it no assurance was given, but it was pointed

out that in view of the comparatively low percentage of the appointments then thrown open to juniors the prospects of senior men would not be seriously affected.

(f) The reply to the first part is in the negative. As regards the second part, Government do not consider that the reservation of some of the vacancies for junior candidates affords a real grievance to their seniors.

APPOINTMENT OF JUNIOR MEN AS INSPECTORS OF POST OFFICES.

477 ***Sardar Sant Singh** : (a) Are Government aware that under Director General's Circular No. 46, dated 3rd March, 1932, the cadres of Inspectors and Head Clerks to Superintendents of Post Offices have been separated and this debars senior officials from promotion to the Inspector's cadre ?

(b) Is it a fact that the symbols of the new examination for Inspectors are not yet published by the Director General, Posts and Telegraphs and that junior unqualified men are appointed as Inspectors over senior qualified and efficient men ?

Mr. T. Ryan : (a) The reply is in the affirmative.

(b) I assume that 'symbols' is a misprint for 'syllabus' : the reply is in the affirmative. As regards the latter part, Government are not aware that the fact is as stated.

APPOINTMENT OF JUNIOR MEN AS INSPECTORS OF POST OFFICES.

478. ***Sardar Sant Singh** : (a) Are Government aware that rules for Postal Department lowest selection grade examination were relaxed in the case of junior officials named in paragraph 5 of the Circular No. 46, dated the 3rd March, 1932 and such of them as were over 40 at the time of examination held in 1929 were required to pass the examination in two subjects only like other senior officials ?

(b) Are Government aware that consequent on this certain "junior" officials (over 40) have superseded senior officials and have been promoted to Inspectors' cadre in preference to senior officials, who were acting as Inspectors and Head Clerks to Superintendents of Post offices for many years, and who were reverted to make room for junior officials ?

(c) Is it a fact that they have been enjoying this privilege for long prior to the issue of Director General's Circular No. 46, dated 3rd March, 1932 ?

(d) If so, what policy do Government intend to follow in future and do they propose to consider the claims of senior men so adversely affected ?

Mr. T. Ryan : (a) The reply is in the affirmative.

(b) The revised procedure provided for the promotion of all eligible junior passed men to the Inspectors' cadre without disturbing the arrangements already made against vacancies which occurred before the introduction of that procedure.

(c) No. The Honourable Member is referred to the reply which I have just given to parts (a) and (c) of his question No. 476.

(d) As regards the first part of the question the future policy of Government in respect of such appointments is laid down in the Director-General's special general circular referred to by the Honourable Member in part (a) of this question. As regards the second part the reply is in the negative. The claims of senior men are adequately met by their eligibility for promotion to the appointment of Postmasters in the selection grade.

ALLOTMENT OF QUARTERS FOR THE SUBORDINATE STAFF OF THE NORTH WESTERN RAILWAY.

479. **Sardar Sant Singh :** (a) Will Government be pleased to state how allotment of quarters among the subordinate staff above the rank of menials is made on the North Western Railway ?

(b) What are the chief determining factors, rank and pay or the nationality ?

(c) If the former, then what relation does it bear towards the different types or the main rooms in a building ?

Mr. P. R. Rau : (a) I am informed that no hard and fast rules have been laid down to regulate the allotment of quarters to the subordinate staff above the rank of menials as it has not been found practicable to enunciate a definite policy.

(b) Ordinarily the staff are considered for quarters in the following orders :

(i) Staff entitled to free quarters or house allowance in lieu thereof

(ii) Staff not entitled to free quarters who are liable to be called out for duty without previous warning.

(iii) Other staff.

(c) As rank, pay or nationality are not the chief determining factors this question does not arise.

ALLOTMENT OF QUARTERS FOR THE SUBORDINATE STAFF OF THE NORTH WESTERN RAILWAY.

480. ***Sardar Sant Singh :** (a) Is it a fact that the Agent, North Western Railway in his letter No. 961/E.62, dated 28th July, 1930, addressed to the General Secretary of the Railway Union advanced an assurance that the staff likely to be called to duty at unexpected hours will have preference in the case of allotment of quarters ?

(b) If the reply to the above be in the affirmative, are Government aware that at certain stations in Lahore Division things contrary to the above exist ?

Mr. P. R. Rau : (a) Yes.

(b) No.

STANDARD OF ACCOMMODATION FOR LADY TICKET COLLECTORS ON THE NORTH WESTERN RAILWAY.

481. ***Sardar Sant Singh** : What is the standard of accommodation for lady ticket collectors on the North Western Railway ?

Mr. P. R. Rau : The type usually allotted contains two main rooms, and, including other rooms and a verandah, has a floor area of 810 square feet.

LIFE SENTENCE AWARDED TO PANDIT JAGAT RAM.

482. ***Sardar Sant Singh** : (a) Will Government kindly refer to question No. 743 answered on 2nd March, 1931 and question No. 18 answered on the 7th September, 1931 and kindly state the action taken by Government in the case of Pandit Jagat Ram ?

(b) Will Government kindly lay on the table the reply promised to question No. 18 (f and g) ?

(c) Will Government kindly state the term of imprisonment which Pandit Jagat Ram, prisoner has undergone upto 15th August, 1932, in the Cellular Jail at Port Blair, special remission by the Government of India granted to him in the Indian jails and the remission earned ? Has the case of this prisoner been reviewed by Government ? If so, when ? Do Government propose to release him ?

(d) Will Government kindly state how often the prisoner was admitted into the hospital throughout ?

The Honourable Mr. H. G. Haig : (a) Pandit Jagat Ram was sentenced to death, with confiscation of property in 1915 by a Special Tribunal constituted under the Defence of India Act, under sections 121, 121-A, 122, 124-A and 131 of the Indian Penal Code. This sentence was commuted to one of transportation for life by the Governor General in Council. He was confined in the Cellular Jail, Port Blair, for the whole period of his stay of five years eight months and 13 days in the Andamans. The further action taken in his case is stated in my reply to part (c) of this question.

(b) I lay on the table the reply promised to parts (f) and (g) of question No. 18.

(c) Pandit Jagat Ram has undergone 16 years 11 months and 2 days imprisonment up to the 15th August, 1932, exclusive of all remissions, and including the period served in the Cellular Jail at Port Blair. He was granted no special remission by the Government of India while in the Punjab Jails. The total remission earned up to the same date is four years nine months and 27 days. Out of this, two years and one month's peace remission was granted in the Andamans under the orders of the Government of India. His case has twice been reviewed by the Punjab Government in 1929 and in 1930. I understand that it is proposed by the Local Government to review the case again when he has completed 25 years' imprisonment with remissions.

(d) During the periods 4th September, 1916, to the 7th March, 1921, and 14th June, 1924, to the 6th June, 1932, he was admitted into hospital

27 times. No record of admissions is available for the period April, 1921, to June, 1923.

Parts (f) and (g). It is a fact that his conduct in Jail has been reported to be good but Government are unable to disclose the contents of the recommendations of jail officials which are confidential. As already explained in reply to part (a) of the question a sentence of transportation for life is determined by executive order. The Local Government who have considered his case have decided not to release him yet.

Mr. Gaya Prasad Singh : Are Government aware that the health of this prisoner has considerably gone down since his incarceration in the different jails of India and also in the Cellular Jail at Port Blair ?

The Honourable Mr. H. G. Haig : I have no definite information about the prisoner's health beyond what I have already given in answer to this question.

Mr. Gaya Prasad Singh : When do Government propose to review the case of this prisoner ?

The Honourable Mr. H. G. Haig : That, Sir, has been stated in my answer.

Sardar Sant Singh : May I know whether the Government of India do not consider it necessary to fix a maximum period which should be undergone by a prisoner who has been sentenced to transportation for life ?

The Honourable Mr. H. G. Haig : No, Sir. We have not found any necessity for taking such action.

Mr. Gaya Prasad Singh : Do I understand that this prisoner was sentenced to transportation for life ?

The Honourable Mr. H. G. Haig : He was sentenced to death and the sentence was commuted to transportation for life.

Sardar Sant Singh : May I know if the absence of any such rule fixing a maximum period for transportation for life will not give rise to a reasonable apprehension in the public mind that in the case of political prisoners Government are acting in a vindictive spirit ?

The Honourable Mr. H. G. Haig : No, Sir ; each case is considered on its merits.

Sardar Sant Singh : Can Government point out any case in which a man convicted of ordinary murder has had to spend 25 years in prison ?

The Honourable Mr. H. G. Haig : I should like to have notice of that question.

Mr. B. V. Jadhav : Are there not any cases in which persons convicted of similar offences have been let off after 14 years' imprisonment ?

The Honourable Mr. H. G. Haig : I am afraid I must ask Honourable Members to give me notice of questions relating to the details of the working of the transportation rules.

**HUMILIATING TREATMENT METED OUT TO MR. R. K. SAROSH IRANI IN
AUSTRALIA AND NEW ZEALAND.**

483. ***Sardar Sant Singh** : (a) Is it a fact that one Mr. R. K. Sarosh Irani of Sarosh Motor Works, Limited, Nasik, went on a trip to Australia and New Zealand ?

(b) Is it a fact that he made a representation to the Government of India of the humiliating experience he had to undergo in Australia ? If so, have the Government of India made any inquiries into the matter ? Has any correspondence passed between the Government of India and the Governments of Australia and New Zealand on the subject ? If so, will Government lay the correspondence on the table ?

(c) If the facts mentioned by Mr. R. K. Sarosh Irani in his letter to the Government of India are correct, do Government propose to take any retaliatory measures against the visitors from those countries to India ?

Mr. G. S. Bajpai : (a) Government understand that Mr. Irani visited New Zealand and Australia this year on his way back from Honolulu.

(b) A complaint made by Mr. Irani against the treatment meted to him by the passport authorities in New Zealand and Australia is being investigated.

(c) Does not arise.

Sardar Sant Singh : Will Government kindly lay the result of that investigation on the table when it is completed ?

Mr. G. S. Bajpai : I shall consider the suggestion.

LEASING OF GRAZING RIGHTS OF MILITARY LANDS IN LAHORE CANTONMENT.

484. ***Sirdar Sohan Singh** : (a) Will Government be pleased to state whether it is a fact that the Military Estates Officer, Lahore Circle leased the grazing rights of all military lands in Lahore Cantonment to one Gaya Pershad for five years by private treaty ?

(b) If so, will Government be pleased to state the amount for which this lease has been granted, and the amount for which this very right was leased in the previous year only for a period of one year ?

(c) Is it a fact that such a long-period lease of grazing right was never granted to any one before ?

(d) Is it also a fact that there were several other higher offers for the lease and that many enquiries were made from the Military Estates Officer as well as from one Gokal Chand, a clerk in the office as to when the lease of grazing right was to be put to public auction for tenders ?

(e) Is it a fact that all leases of military lands, even of small amounts of a couple of hundred of rupees, have always been given before and now either by public auction or public tender after either advertisement in paper, or after issue of public notice ?

(f) Is it a fact that no advertisement or public notice was issued in this case although it was the biggest lease ever granted and involved nearly Rs. 30,000 ?

(g) Is it a fact that in Lahore Cantonment the R. A. F. landing grounds which were leased by the Military Estates Officer for Rs. 225 last year, has secured as much as Rs. 500 this year when put in auction by the Military Engineering Department ?

(h) What action do Government propose to take to avoid such leases being given without public notice or advertisement ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) Rs. 5,500 a year against Rs. 5,692 last year. The total is less this year because the grazing area has been reduced. The bid represents an increase of about Rs. 500 over last year's figure for the area actually leased. Moreover, the contractor has undertaken in addition to remove all obnoxious vegetation and overgrowth at his own expense.

(c) Government have no information. Five year leases are contemplated by the rules.

(d) No enquiries or other offers were made until the contract had been concluded.

(e) No. Under the rules the Military Estates Officer may dispose of such lands for periods not exceeding five years with the concurrence of the General Officer Commanding-in-Chief and public auction is not invariably required.

(f) Yes.

(g) Yes. Last year the Military Estates Officer realised Rs. 225 for this ground in open auction, and Rs. 660 for the Landing Ground at Amritsar. This year Rs. 500 was bid for the Lahore ground and only Rs. 400 for the ground at Amritsar.

(h) In view of what I have said in reply to part (e), no action is called for.

INQUIRY BY AN EXPERT COMMITTEE INTO THE RAILWAY ADMINISTRATION OF INDIA.

485. **Mr. B. Das :** (a) Will Government be pleased to state if they have decided on the personnel of the Expert Committee to inquire into the Railway administration of India ? If so, who are they ?

(b) When is the Railway Expert Committee likely to meet ?

(c) What are the terms of reference to this Committee ?

Mr. P. R. Rau : (a) No ; the matter is under correspondence with the Secretary of State.

(b) and (c). Government are unable to give a reply to these questions at present, as nothing has yet been settled definitely.

Mr. B. Das : Was not this committee expected to be appointed last cold weather, and is it not a fact that Sir George Rainy made a statement that certain negotiations were going on between the Secretary of State and certain high railway experts and therefore this expert committee should be postponed till the coming cold weather ? Why has such delay occurred in the appointment of this committee ?

Mr. P. R. Rau : The delay is incidental to the necessity of finding out suitable people to conduct the inquiry.

Mr. B. Das : Has not one year gone since the Railway Retrenchment Committee of which the Honourable Member was Secretary reported about this committee ?

Mr. P. R. Rau : Yes, Sir.

Mr. Gaya Prasad Singh : What is the object of appointing this Railway Expert Committee in these times of financial stringency ?

Mr. P. R. Rau : I believe the object of this committee is to consider measures by which the working expenses of railways can be reduced, and times of financial stringency are exactly the times when such a committee should be appointed.

Mr. Gaya Prasad Singh : Why was not this subject entrusted to the Railway Retrenchment Sub-Committee ?

Mr. P. R. Rau : It was a recommendation of the Retrenchment Sub-Committee that an expert committee should be appointed.

Dr. Ziauddin Ahmad : May I remind the Honourable Member that the Railway Retrenchment Sub-Committee mentioned this fact on the strict understanding that this expert committee would be appointed in November last, the Members of the Retrenchment Committee being then engaged in the discussion of Finance Bill and having no time ?

The Honourable Sir Alan Parsons : Perhaps in the absence of my Honourable colleague, the Railway Member, I may answer the question. Efforts were immediately made by Government to collect personnel for this expert committee : as far as my recollection goes, we entered into telegraphic correspondence with the Secretary of State immediately. But members are aware that there were troubles, financial and economic, in other parts of the world as well, and none of the eminent gentlemen who were approached could be obtained for service on the committee. Since then we have been in correspondence with the Secretary of State in order to obtain suitable experts whose names would inspire confidence, to come out this cold weather ; and I happen to know that the Honourable Sir George Schuster himself has been discussing the matter with the India Office. I believe that fairly soon we ought to obtain a suitable committee and when we do so, of course, the names will be immediately announced in the House. I should like to make it quite clear that there is no intention on the part of the Government of India to go back upon the undertaking to appoint a committee of this kind.

Dr. Ziauddin Ahmad : May I just ask also, if the appointment of this committee was delayed, then why was not the Retrenchment Sub-Committee asked to continue this work ?

The Honourable Sir Alan Parsons : Though I believe the Honourable gentleman has fairly strong opinions on that subject, the recommendation of the Retrenchment Sub-Committee was quite definite that there should be an expert body to go into the whole working of the railway system in India. It was, I think, realised by most, perhaps not all, members of the Retrenchment Committee that an expert body was the type of body which was required.

Mr. H. P. Mody : Is it intended to go to the United States and other foreign countries in the hunt for experts for this committee ?

The Honourable Sir Alan Parsons : I am afraid at the moment I can make no statement as to the personnel of the committee.

Dr. Ziauddin Ahmad : Will this expert committee enter into the constitutional problems about railways also ?

Mr. P. R. Rau : No.

Dr. Ziauddin Ahmad : Only the day to day administration work and no constitutional question will be laid before the committee ?

Mr. P. R. Rau : No.

The Honourable Sir Frank Noyce : Sir, as the Honourable the Leader of the House has been summoned away on urgent business, he has requested me to obtain your permission to answer these questions.

INQUIRY BY AN EXPERT COMMITTEE INTO THE RAILWAY ADMINISTRATION OF INDIA.

486. ***Mr. B. Das :** (a) Has the attention of the Government been drawn to the press news that Government intend to appoint another expert Committee this autumn to investigate the question whether the Railways of India are to be under a statutory body ?

(b) Do Government propose to appoint such a committee and, if so, what will be its personnel and terms of reference ?

The Honourable Sir Frank Noyce (on behalf of the Honourable Sir C. P. Ramaswami Aiyar) : (a) Yes.

(b) There is no such proposal under consideration at present.

REDUCTION OF PAY OF INFERIOR SERVANTS OF THE PUBLIC WORKS DEPARTMENT, NEW DELHI.

87. ***Mr. Bhuput Singh :** (a) Is it a fact that the scales of pay of the *malis*, *chaudhries* and other inferior servants working under the Horticultural Division and other Divisions of the Public Works Department, New Delhi, have been reduced ? If so, will Government be pleased to state the percentage of cut in the salaries of such employees ?

(b) Will Government be pleased to state whether they decided that the pay of men getting a salary of Rs. 40 and below will not be reduced ?

(c) If the answer to part (b) be in the affirmative, will Government be pleased to state why the pay of these men drawing a salary below Rs. 40 has been reduced ?

(d) If the answer to part (b) be in the negative, will Government be pleased to state whether the pay of all inferior Government servants including the Police has been reduced ? If not, who are the men whose pay has not been reduced ?

(e) Do Government propose to restore the pay of these employees ? If not, why not ?

(f) Is it a fact that the Retrenchment Committee recommended the reduction of certain posts held by Europeans and Anglo-Indians in the Public Works Department, New Delhi, including the post of Personal Assistant to the Chief Engineer ? If so, is it a fact that, instead of

retrenching those posts held by Europeans and Anglo-Indians, Government are effecting retrenchment of expenditure by means of reducing the pay of inferior servants, in some cases by percentage cuts as high as 30 per cent. or more ?

(g) Is it a fact that the pay of men getting Rs. 16 maximum has been reduced to Rs. 12-12-0 and men getting a pay of Rs. 6 minimum has been reduced to Rs. 4-13-0 and the pay of the men drawing salaries between Rs. 16 and Rs. 6 has been reduced by the same percentage ? If so, will Government be pleased to state the reasons for effecting such a high percentage of cut in the pay of these low paid men ?

(h) Do Government propose to restore the pay of all men in the different divisions of the Public Works Departments, New Delhi, whose pay is Rs. 40 and below ? If not, why not ?

The Honourable Sir Frank Noyce : (a) The scale of wages of *malis* and *chowdhries* has been reduced by 11 per cent. to 14 per cent., with effect from the 1st April, 1932.

(b) and (c). The decision which the Honourable Member has in mind refers to employees in regular service and does not apply to casual labour which is engaged from time to time as required. The practice is to engage this class of labour at market rates.

(d) Does not arise.

(e) No. The revised rates follow the local market rates.

(f) The Public Works, Accounts and Audit Departments Sub-Committee of the Retrenchment Advisory Committee recommended the abolition of certain posts some of which are or were held by Europeans. Some of these posts have been abolished. The Sub-Committee did not recommend the abolition of the post of Personal Assistant to the Chief Engineer but recommended that a technical Personal Assistant should be substituted for a non-technical Personal Assistant. There is no foundation for the suggestion that any of these posts has been saved by cutting down the wages of inferior servants.

(g) The wages of casual labourers in the Delhi Public Works Department have been reduced by 12 to 15 per cent. all round, with effect from the 1st April, 1932. The revised rates are in keeping with the local market rates.

(h) No.

INDIAN MEDICAL COUNCIL BILL.

488. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Nabakumar Sing Dudhoria) : Will Government be pleased to state :

- (a) the special reasons for which the Indian Medical Council Bill is proposed to be brought on the anvil ;
- (b) the total number of registered medical practitioners existing at present in the whole of India ;
- (c) how many of such registered practitioners are members of the Indian Medical Service ;

(d) in what percentage the registered practitioners are allowed representation in the future medical council excluding the representation of the I. M. S.'s ; and

(e) the decisions that were arrived at at the special committee that sat in Simla in 1931, to consider the provisions of the forthcoming Medical Council Bill ?

Mr. G. S. Bajpai : (a) I would invite the attention of the Honourable Member to the Statement of Objects and Reasons attached to the Bill.

(b) Precise information is not readily available. Roughly speaking, however, there are in all about 27,000 registered medical practitioners in India.

(c) The information is being collected and will be supplied when available.

(d) I would refer the Honourable Member to clause 3 of the Bill.

(e) No Committee sat in Simla in 1931.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to state if opinions have been called for on this Bill from the medical people ?

Mr. G. S. Bajpai : When the Bill was circulated, opinions from medical faculties were received and I have no doubt my Honourable friend is aware that since then a stream of opinions has poured in upon the Government of India.

Mr. Gaya Prasad Singh : And most of these opinions have been adverse to the Medical Council Bill ?

Mr. G. S. Bajpai : My Honourable friend is perfectly at liberty to form his own opinion.

Mr. Gaya Prasad Singh : My question is not one of opinion. Is it not a fact that most of the opinions received on this Medical Council Bill are adverse to the Bill as framed by the member in charge ?

Mr. G. S. Bajpai : In the first place I would point out to my Honourable friend that I have not framed the Bill. In the second place, I do not think that most of the opinions received are against it.

Mr. M. Maswood Ahmad : Will the Honourable Member circulate the opinions to Members ?

Mr. G. S. Bajpai : If my Honourable friend will possess his soul in patience perhaps, next session, he will have an opportunity of considering both the Bill and the opinions.

Dr. Ziauddin Ahmad : Do Government propose to proceed with this legislation in November ?

Mr. G. S. Bajpai : No decision of that kind has been reached yet.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to state if licentiates have sent in a representation that their status should be the same as the graduates ?

Mr. G. S. Bajpai : Representations have been received. The licentiates have not said that their status should be the same but that they should be included in the all-India register.

Mr. Lalchand Navalrai : What reply has been made to that ?

Mr. G. S. Bajpai : They did not ask for a reply.

Mr. Lalchand Navalrai : What is the reply on that point ?

Mr. G. S. Bajpai : I am not in a position yet to give any reply to that question.

Mr. Lalchand Navalrai : What is the reason ?

Mr. G. S. Bajpai : The very simple reason, Sir, that the Bill did not originally include the licentiates, and the question whether they should be included is one of policy upon which the Government of India have not yet come to a decision.

ARMED ATTACK UPON GUARDS AT THE GATE OF THE DEOLI DETENTION CAMP.

489. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Nabakumar Sing Dudhoria) : Will Government be pleased to state :

- (a) whether they have received further details of the incident of the armed attack by three so called Bengali youths upon the guards at the gate of the Deoli Detention Camp than what has already appeared in their *communiqué* on the subject ;
- (b) if the answer to part (a) is in affirmative whether they will place on the table copies of the correspondence which they have had with the authorities in Ajmer-Merwara on the subject ; and
- (c) whether they are aware that youths other than Bengalees dress themselves like Bengalees and often pass themselves off as such ?

The Honourable Mr. H. G. Haig : (a) Government have received no report subsequent to that originally sent by the Superintendent.

(b) The answer is in the negative.

(c) I was not aware of this.

HEALTH AND TREATMENT OF MR. SUBHAS CHANDRA BOSE.

490. ***Mr. K. P. Thampan :** (a) Will Government be pleased to state whether they have seen the statement made on the 5th August in the Madras Legislative Council by the Honourable the Law Member regarding the health and treatment of Mr. Subhas Chandra Bose ?

(b) Is it true that the Madras Government were instructed to keep Mr. Bose in the Penitentiary and that he should not be removed to the General Hospital ?

(c) Is it a fact that Mr. Bose is very ill and has lost 42 lbs. in weight ?

(d) Will Government please state whether Mr. Bose himself applied for transfer into the General Hospital and what was the objection to comply with his request ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b), (c) and (d). Mr. Subhas Chandra Bose was transferred to the Madras Penitentiary for further diagnosis and it was not considered necessary to keep him as an in-door patient in the General Hospital, Madras, for this purpose. The final report on his health after X-Ray examination

in Madras shows that he is suffering from tuberculosis. The medical report shows that he has lost about 40 lbs. in weight. Mr. Bose did apply for transfer to the General Hospital but it is not intended to keep him in Madras.

Mr. K. P. Thampan : When once a prisoner is sent to a particular province, is it not within the discretionary power of the Government of that province to decide where he should be kept ?

The Honourable Mr. H. G. Haig : Is it the Honourable Member's suggestion that the Government of Madras are not allowed to place him there ?

Mr. K. P. Thampan : Yes, in the Madras General Hospital.

The Honourable Mr. H. G. Haig : That is not so.

Mr. B. Das : May I be permitted to say that Mr. S. C. Bose was born in Cuttack and that I welcome him to come to Orissa if Madras is refusing him ?

The Honourable Mr. H. G. Haig : I was not aware that in addition to its other merits, Orissa was regarded as a sanatorium.

Mr. K. P. Thampan : May I know whether the Government will permit him to go to some health resort in the continent of Europe if he is not improving ?

The Honourable Mr. H. G. Haig : I mentioned to the House a few days ago that a proposal for his transfer to a sanatorium in India is under consideration.

Mr. S. C. Mitra : Was there any instruction from the Government of India itself that Mr. S. C. Bose should not be taken out of the penitentiary to the civil hospital or anywhere else ?

The Honourable Mr. H. G. Haig : I have no recollection of any such instruction.

SAFETY MEASURES, ETC., BY ELECTRICITY SUPPLYING COMPANIES IN DELHI AND THE UNITED PROVINCES.

491. ***Sir Muhammad Yakub :** (a) Has the attention of Government been drawn to an article published in the *Hindustan Times*, dated the 25th February, 1932, about the Electric Power Supply, published on pages 13 and 14 of the paper ?

(b) Are Government aware that A. C. with 230 volts is used in certain parts of Delhi, Rohilkhand and in many other places in the United Provinces ?

(c) Are Government aware that the electricity supplying companies have not taken proper measures for the safety of the public in these places ?

(d) Are Government aware that lightning arrests and choking coils have not been placed at each supply centre in order to avoid danger from lightning ?

(e) Are Government aware that electricity supplying companies are charging very high prices in Delhi, Rohilkhand and other places in the United Provinces, varying between seven annas and six annas six pies per unit ?

(f) Do Government propose to take any steps in the matter ; if so, what ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) I believe that this is the case.

(c) No.

(d) Lightning arresters and choking coils have been provided in Delhi, Government have no information regarding other places.

(e) I have only information for Delhi, and the position there is not quite as stated by the Honourable Member. The rates for lighting and fans are four annas for seven months of the year and 6½ annas for the remainder. The charge for domestic heating and cooking is three annas a unit and power is supplied at still lower rates. All these rates, moreover, are subject to a discount of ten per cent. for prompt payment.

(f) No, because I am not aware of any matters requiring action by the Government of India in this connection.

Sir Muhammad Yakub : If the Government of India have made no inquiries about other places than Delhi, how are they in a position to state that the facts are not what I have stated ?

The Honourable Sir Frank Noyce : Other places than Delhi are the concern of the Local Government.

Sir Muhammad Yakub : Is the supply of electricity the concern of Local Governments or of the Government of India ?

The Honourable Sir Frank Noyce : The administration of the Electricity Act is a matter for the Local Government.

FAVOURITISM IN POSTAL DEPARTMENT IN BALUCHISTAN.

492. ***Mr. M. Maswood Ahmad :** (a) Has the attention of Government been drawn to an article entitled " Favouritism in Baluchistan " published on page 17 of the *Postal Advocate*, Delhi, July, 1931, issue ?

(b) Will Government be pleased to state whether the allegations made in the said article have been found to be correct ?

(c) Do Government propose to make inquiries into these serious allegations referred to in part (a) above and take such action as may be necessary to do justice to the aggrieved party ?

The Honourable Sir Frank Noyce : (a) Yes

(b) and (c). As from inquiries it has been found that the allegations were incorrect, Government do not propose to take any further action in the matter.

EMPLOYMENT OF MUSLIMS IN THE EAST INDIAN RAILWAY.

493. ***Mr. M. Maswood Ahmad :** Are Government aware that Sir Hasan Suhrawardy submitted a memorandum to the Railway Court of Inquiry regarding the present position of Muslim employment in the East

Indian Railway ? Was the memorandum considered by the Court of Enquiry ? If so, what was its decision ?

The Honourable Sir Frank Noyce : The attention of the Honourable Member is invited to the reply given by the Honourable Sir Joseph Bhore to this question, which was put by Dr. Ziauddin Ahmad in this House on the 6th April, 1932.

Mr. M. Maswood Ahmad : I am sorry, Sir, there I find one mistake. The memorandum was submitted by Mr. Shaheed Suhrawardy and not by Sir Hasan Suhrawardy, and I want to correct that mistake here.

The Honourable Sir Frank Noyce : I am sorry I was unable to catch the Honourable Member's question.

Mr. M. Maswood Ahmad : Here in the question it is stated that Sir Hasan Suhrawardy submitted a memorandum to the Railway Court of Inquiry. It was not submitted by Sir Hasan Suhrawardy.....

Sir Abdulla-al-Māmūn Suhrawardy : Sir Hasan Suhrawardy never submitted any memorandum to any body. I do not know why the Honourable the Interpellator persists in his misstatement.

Mr. M. Maswood Ahmad : The memorandum was submitted by Mr. Shaheed Suhrawardy and not by Sir Hasan Suhrawardy, and I want to correct that mistake, Sir.

STATE PRISONERS IN THE OLD CENTRAL JAIL, MULTAN, UNDER REGULATION III OF 1818.

494. ***Mr. M. Maswood Ahmad :** (a) Will Government please state whether it is a fact that the Government of India (Home Department) received any application dated the 1st June, 1931, regarding the state prisoners then confined in the old central jail, Multan, under Regulation III of 1818 ?

(b) Will Government please lay on the table a copy of the letter No. 13557-S. B., from C. C. Garbett, Esq., C.M.G., C.I.E., F.R.G.S., I.C.S., Chief Secretary to the Government, Punjab, dated Simla E., the 8th July, 1931, in connection with part (a) ?

The Honourable Mr. H. G. Haig : (a) An application, dated the 1st June, 1931, on behalf of some State Prisoners in the Multan Jail was received.

(b) If this relates to any letter addressed by the Government of the Punjab to the Government of India, I am afraid I am not prepared to lay a copy on the table.

EXAMINATIONS OF THE DELHI UNIVERSITY.

495. ***Mr. B. Das** (on behalf of Rao Bahadur M. C. Rajah) : (a) Is it a fact that any student who obtains forty-five per cent. of the aggregate number of marks but fails in one subject only obtaining not less than twenty-five per cent. of the marks in that subject, is declared to have passed the B.A. or B.Sc. examination in the Delhi University, if he makes up three marks in the aggregate, in addition to the forty-five per cent. of each mark by which he is short ?

(b) If so, will Government be pleased to state the number of candidates declared successful under the above provision in the statutes of the Delhi University in the years 1930, 1931 and 1932 out of the total number which would have failed otherwise ?

(c) Is there any other university in India where such a rule is in vogue ?

Mr. G. S. Bajpai : (a) Yes.

(b) A statement, giving the information asked for by the Honourable Member, is laid on the table.

(c) Yes ; a somewhat similar concession is allowed by the University of Calcutta.

Number of candidates declared successful under the rule referred to in part (a) of Rao Bahadur M. C. Rajah's question No. 495.

Year.	Number of candidates declared successful under the rule.	
	B. A.	B. Sc.
1930	2	1
1931 .. .. .	..	1
1932	2	5

Mr. Gaya Prasad Singh : Do Government propose to place the Delhi University on the same footing as the other Universities of India in the matter of introducing compartmental system of examinations.

Mr. G. S. Bajpai : Well, Sir, it is a matter which the University of Delhi must consider first.

Mr. Gaya Prasad Singh : Is it not a fact that in the absence of compartmental system of examinations for B.A., and B.Sc., the graduates of the Delhi University are placed at an unfair disadvantage as compared with the students of most of the other Universities of India ?

Mr. G. S. Bajpai : That is the Honourable Member's opinion, Sir, and I am not prepared to say either " Yes " or " No " to that.

Mr. Gaya Prasad Singh : Do Government propose to introduce the compartmental system of examinations in the Delhi University ?

Mr. G. S. Bajpai : I have already pointed out to my Honourable friend that the initiative in the matter rests with the Delhi University.

Mr. K. P. Thampan : Is not the Delhi University an autonomous body ?

Mr. G. S. Bajpai : It is an autonomous body.

Mr. Gaya Prasad Singh : Do I understand then that the Delhi University has made no proposal to this effect at all ?

Mr. G. S. Bajpai : So far as I am aware, Sir, no such proposal has been received by the Government of India.

Dr. Ziauddin Ahmad : Will the Government be prepared to admit their proposal if it comes up from the University ?

Mr. G. S. Bajpai : The Government will consider it, but I am not prepared to say at the moment whether the proposal will be admitted.

BONUS GRANTED TO THE STAFF IN CERTAIN OFFICES FOR HEAVY SEASONAL WORK.

496. ***Mr. S. C. Mitra :** (a) Is it a fact that the Finance Department grant bonus to their staff for budget work ? Is bonus granted to the staff in other Departments for heavy seasonal work ?

(b) Is it a fact that a bonus was granted to the staff employed in the Retrenchment Office ? Will Government please state the names of men who received the bonus ? Did any gazetted officer receive the bonus ? Is it given to the gazetted officers in the Finance Department also ?

The Honourable Sir Alan Parsons : (a) Yes. In other Departments also a similar bonus is granted occasionally for sufficient reasons.

(b) Yes. Bonus was given to Messrs. B. Grice, N. N. Singh, Bishan Dass, G. B. Singh, D. S. Bhalla, C. D. Bhalla, Shah Badruddin, Bashir Ahmad, Ramji Dass and Jagannath, and Miss L. Grant. The staff of the Retrenchment Office included a permanent Superintendent lent from the Finance Department. Bonus is not given to any gazetted officer in the Finance Department for Budget work.

INDIAN CAPITAL IN THE KREUGAR MATCH SYNDICATE.

497. ***Mr. B. Das :** (a) Will Government be pleased to state if there was any adverse effect on the Indian financial market by the suicide of Mr. Irvan Kreugar, the Swedish Match King ?

(b) How much Indian capital according to Government estimate was locked up in the Kreugar Syndicate ?

The Honourable Sir Alan Parsons : (a) and (b). Government have no information how much Indian capital was invested in the various Kreugar concerns, but it must have been an insignificant portion of the total. The direct effects of the death of Mr. Kreugar on the Indian market were inappreciable.

MATCH FACTORIES IN INDIA CONTROLLED BY SWEDISH MATCH COMPANIES.

498. ***Mr. B. Das :** (a) Will Government be pleased to state how many match factories in India are controlled by the Swedish Match Companies in India, and the amount of (i) Indian and (ii) foreign capital invested in them ?

(b) Is there any change in control of these match factories since Mr. Kreugar's suicide ?

The Honourable Sir Frank Noyce : (a) So far as my information goes, there were eight match factories in India and Burma owned or controlled by Swedish match companies in 1931. I believe that one of these factories has since been closed. Particulars are not available of the Indian and foreign capital invested in these factories.

(b) Not so far as I am aware.

STATEMENT ON SOUTH AFRICA BY MR. G. S. BAJPAI.

499. **Mr. B. Das :** Will Government be pleased to state whether they intend to carry out the promises given to the House by the Honourable Sir Fazl-i-Husain and to allot early in the session a day to discuss the statement on South Africa, that was made by Mr. G. S. Bajpai on the floor of the House on the 5th April ?

The Honourable Sir Frank Noyce (on behalf of the Leader of the House) : I would draw the attention of the Honourable Member to the answer given by me to a supplementary question asked by Mr. S. C. Mitra on this subject on 12th September.

RELATIONS OF INDIA WITH SOUTH AFRICA.

500. ***Mr. B. Das :** (a) Will Government be pleased to state if the hopeful anticipations of the Indian deputation have been observed so far by the South African Government and, if not, what are the issues on which there has been definite departure since the statement on South Africa was made ?

(b) Will Government be pleased to state the present state of cordial relations with South Africa and whether there has arisen any tension between India and South Africa as to the break in such relations ?

Mr. G. S. Bajpai : I would invite the Honourable Member's attention to the reply given by me to the short notice question by Mr C. S. Ranga Iyer on the 12th of this month.

REPATRIATION OF INDIANS FROM SOUTH AFRICA.

501. ***Mr. B. Das :** (a) With reference to sub-paragraph 2 of paragraph 5 of the statement on South Africa on the question of assisted immigration wherein it was stated that " 80 per cent. of the Indian population was born in the Union. The recognition by the Union Government that the possibilities of this scheme are now practically exhaustive should be received with considerable relief by Indian opinion on both sides of the ocean ", will Government be pleased to state the number of Indians repatriated since April last ?

(b) Is it a fact that in June last there were two shipments of 532 and 132 Indians to India ?

(c) How many of these repatriated Indians are South African born ?

Mr. G. S. Bajpai : (a) 832.

(b) Two batches left South Africa in June but the numbers were 551 and 172.

(c) 507

REPATRIATION OF INDIANS FROM SOUTH AFRICA.

502. ***Mr. B. Das :** (a) Will Government be pleased to state the repatriation figures from South Africa for 1930, 1931 and 1932 ?

(b) Will Government be pleased to state if the Government of South Africa have been exceptionally active, after the return of the Indian Deputation, to repatriate Indians ?

(c) Will Government be pleased to state in how many of these cases the returned immigrants exercised their " free will " and how often they were subjected to the influence of the " recruiters " ?

Mr. G. S. Bajpai : (a) 1,011, 1,961 and 1,399 in 1930, 1931 and 1932, respectively.

(b) The Honourable Member presumably wishes to know whether the Government of the Union have been exceptionally active in promoting assisted emigration to India since the return of the Indian Deputation. The answer to his question is in the negative. The Union Government used formerly to employ men to explain the scheme to Indians, but they have now dispensed with their services with effect from the 31st March last.

(c) So far as the Government of India are aware, Sir, the Scheme has been worked on a strictly voluntary basis

LAND SETTLEMENT SCHEME OUTSIDE INDIA FOR INDIANS BORN IN SOUTH AFRICA.

503. ***Mr. B. Das :** (a) Will Government be pleased to state what further development has so far taken place regarding their agreement with South Africa (*vide* sub-paragraph 3 of paragraph 5 of the statement made by Mr. Bajpai in the Assembly on the 5th April, 1932) on the question of the land settlement scheme outside India for the South African born Indians ?

(b) Which are the countries being explored and selected for this forced expulsion of South African Indians from South Africa ?

(c) Is it a fact that private agencies and Government agencies are exploring fields in Brazil and New Guinea to settle these South African Indians ?

(d) Will Government be pleased to state if South Africa do at all intend to retain any large number of Indians in South Africa ?

Mr. G. S. Bajpai : (a), (b) and (c). The attention of the Honourable Member is invited to the answer given by me on the 12th September, to Mr. C. S. Ranga Iyer's short notice question.

(d) I would invite the attention of the Honourable Member to the relevant passage in Part III of the annexure to the Cape Town Agreement, 1927.

SEARCH BY POLICE OF A 'HINDUSTAN TIMES' REPORTER.

504. ***Mr. B. Das :** (a) With reference to the news published in the *Hindustan Times* of 16th August, 1932, on page 7, column 3, with head

lines " Press reporter searched ", " Police hunt for a statement ", will Government be pleased to state if Mr. Chaman Lal, the Chief Reporter of the *Hindustan Times* was searched under orders from the C. I. D. Headquarters ?

(b) Is it a fact that the Police stated that the search was carried out under section 18 of the Press Act under orders from the C. I. D. Headquarters ?

(c) Will Government be pleased to state if they are satisfied that section 18 of the Press Act does confer such powers on the police to make a personal search of press reporters ?

The Honourable Mr. H. G. Haig : With your permission, Sir, I propose to reply to questions Nos. 504 and 505, together. I am making enquiries and will lay a statement on the table in due course.

SEARCH BY POLICE OF A 'HINDUSTAN TIMES' REPORTER.

†505. ***Mr. B. Das :** (a) Will Government be pleased to state if they were not aware that the Chief Reporter of the *Hindustan Times* went to interview Dr. Kitchlew, the acting president of the Congress ?

(b) Do Government consider a press interview with Congress leaders an offence ?

(c) Could not Government have exercised press censorship on the *Hindustan Times*, instead of confiscating the reporter's interview ?

ADVISORY TRIBUNAL FOR DEFENCE AND CAPITATION CHARGES OF INDIA.

506. ***Mr. B. Das :** (a) Will Government be pleased to state whether they intend to adopt any procedure regarding official and non-official evidence before the Advisory Tribunal for defence and capitation charges of India ? If so, what ?

(b) Is it not a fact that the Tribunal will hold sittings only at London ?

(c) If the reply to part (a) is in the affirmative, what procedure do Government contemplate to adopt so that non-official evidence can be given before the Tribunal ?

Mr. G. R. F. Tottenham : (a), (b) and (c). The Tribunal will sit in London and the points in issue will be argued before it by legal counsel on briefs prepared for them by expert official advisers. As far as I am aware, no witnesses, either official or non-official, will be examined.

Mr. B. Das : Will Government take steps to place before the Tribunal the non-official view expressed on the floor of this House ?

Mr. G. R. F. Tottenham : Yes, Sir ; I have already given an undertaking to that effect—that the record of the recent debate will be forwarded to the authorities at Home. I can assure the Honourable Member that the non-official view will be placed before the Tribunal.

APPOINTMENT OF SIR DAVID PETRIE AS CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

507. ***Mr. B. Das :** (a) Will Government be pleased to state if they have appointed Sir David Petrie as the Chairman of the Public Service Commission ?

†For answer to this question, see answer to question No. 504.

(b) Is it not a fact that Sir David Petrie belongs to the Indian Police Service ?

(c) Was it not implied during the first appointment of the Public Service Commissioners that the Chairman should be taken from non service men ?

(d) Will Government be pleased to lay on the table a copy of the rules governing the appointment of the Chairman of the Public Service Commission ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) Yes.

(c) I am aware of no such implication.

(d) The appointment is made under section 96-C of the Government of India Act. The only rules on the subject are contained in Part II of the Public Service Commission (Conditions of Service) Rules, 1926.

Sirdar Harbans Singh Brar : Is it not a fact, Sir, that the claims of a senior Indian have been ignored in making this temporary appointment ?

The Honourable Mr. H. G. Haig : An appointment, Sir, like that of Chairman of the Public Service Commission, does not go by seniority.

Mr. Gaya Prasad Singh : Then does it go on communal lines ?

The Honourable Mr. H. G. Haig : No, Sir ; the Government or rather the Secretary of State select the officer whom they consider most suitable for the post.

Mr. Gaya Prasad Singh : Who was the seniormost Member of the Public Service Commission before the appointment of Sir David Petrie ?

The Honourable Mr. H. G. Haig : I am not sure, Sir, of the seniority in date of appointment as between the other Members.

Mr. Gaya Prasad Singh : When was Sir David Petrie appointed as a Member of the Public Service Commission ?

The Honourable Mr. H. G. Haig : He was probably appointed later than any of the others.

Mr. Gaya Prasad Singh : May I take it that he was the most junior Member of the Public Service Commission when he was appointed as Chairman ?

The Honourable Mr. H. G. Haig : The Honourable Member might draw that conclusion.

Mr. Gaya Prasad Singh : It is a question of fact.

Mr. K. P. Thampan : Has Sir David Petrie any legal training or qualification ?

The Honourable Mr. H. G. Haig : No. He is not a member of the legal profession.

Mr. Gaya Prasad Singh : What was the appointment he was holding when he was appointed a member of the Public Service Commission ?

The Honourable Mr. H. G. Haig : He had completed the appointment which he held up here, and was on leave preparatory to retirement

Mr. Gaya Prasad Singh : I wanted to know what was the appointment he was holding in India in the Police Service ?

The Honourable Mr. H. G. Haig : He was Director of the Intelligence Bureau.

Mr. Gaya Prasad Singh : Oh, that is it.

Mr. S. C. Mitra : Is it the policy of the Government not to appoint an Indian as Chairman of the Public Service Commission ?

The Honourable Mr. H. G. Haig : No. There is no such policy.

Mr. S. C. Mitra : Is experience in the Police Service a necessary qualification for the Chairmanship of the Public Service Commission ?

The Honourable Mr. H. G. Haig : The Honourable Member will no doubt be aware that Sir Ross Barker was not a member of the Police Service, and I think that answers my Honourable friend's question.

Mr. S. C. Mitra : Perhaps there was not a policeman available at the time, and will the Government consider in future, that service in the police is a necessary qualification for the appointment ?

Mr. K. P. Thampan : Does not the Honourable Member think that some legal or judicial qualification is necessary in the case of the Chairman of the Public Service Commission as complicated questions of offence, punishment and dismissal connected with the services come up for decision before the Commission ?

The Honourable Mr. H. G. Haig : Many qualifications, Sir, are desirable, but one cannot say that any particular one is necessary.

Mr. Lalchand Navalrai : Being a police officer is also a necessary qualification ?

The Honourable Mr. H. G. Haig : No, Sir. That is not one of the necessary qualifications.

Mr. Lalchand Navalrai : Is it a fact that he had to be provided for as he was on leave and therefore he had been pitchforked into this appointment, or was no better man available for the job ?

The Honourable Mr. H. G. Haig : The Government, after considering the matter very carefully, came to the conclusion that Sir David Petrie was the most suitable officer for appointment to the post.

Mr. Lalchand Navalrai : For what reasons ? I am asking whether it was because he had to be provided for as he was on leave ?

The Honourable Mr. H. G. Haig : No, Sir. I have just said that it is not a question of any officer being provided for, but of very careful selection of the best man available.

Mr. S. C. Mitra : What are the educational qualifications of Sir David Petrie ? Is he a graduate or even a matriculate ?

The Honourable Mr. H. G. Haig : Certainly not of an Indian university.

Mr. Muhammad Muazzam Sahib Bahadur : Are appointments to the Public Service Commission made on the results of a competitive examination ? (Laughter.)

The Honourable Mr. H. G. Haig : No, not yet, Sir. (Laughter.)

LEAKAGE OF INFORMATION *re* THE COMMUNAL AWARD.

508. ***Mr. B. Das** : (a) Are Government aware that the Communal Award about the Punjab and Bengal was common property in Simla and in big provincial towns some ten days before the 17th August ?

(b) Have Government investigated the source of leakage of such information ?

The Honourable Mr. H. G. Haig : (a) No.

(b) Does not arise.

Mr. B. Das : May I take it that the Honourable Member's Intelligence Department was not aware of the fact that the whole of Simla knew of the fact,—that the Communal Award was common property in Simla ?

The Honourable Mr. H. G. Haig : No, Sir. I am afraid in this matter our Intelligence Service must have been at fault.

Mr. Gaya Prasad Singh : So un-intelligent ! (Laughter.)

Mr. B. Das : Will the Honourable Member kindly make enquiries as to how the Intelligence Department did not know what we all knew ?

The Honourable Mr. H. G. Haig : Is the Honourable Member prepared to assure me that he was acquainted with the whole of the Communal Award ten days before it was given ?

Mr. B. Das : The general lines were well-known all over Simla,—even at Calcutta, Allahabad and Lucknow.

The Honourable Mr. H. G. Haig : It seems strange that it was not communicated to the Press in that case.

Mr. Gaya Prasad Singh : The news probably leaked out from high sources.

RE-OPENING OF THE ANDAMANS FOR POLITICAL PRISONERS.

509. ***Mr. S. C. Mitra** : (a) Are Government aware of the fact that their decision to re-open the Andamans (which was regarded as a "Blot" on the administration and as such abandoned in 1922) for the political prisoners, after so long as ten years, has caused a deep feeling of resentment in the country against the decision amongst people of different political views ? If not, do Government propose to ascertain the views of Bengal public ? If not, why not ?

(b) Will Government be pleased to state the reasons for such a breach of the letter and spirit of a solemn and definite assurance given by Government in 1922 ?

(c) Do Government propose to place a statement containing detailed information about the plan before the public to allay the grave misgivings in the public mind ?

The Honourable Mr. H. G. Haig : (a) Government are not aware of such a feeling throughout the country as is described by the Honourable Member. I would remind him that the only convicts whose removal from Bengal to the Andamans is in contemplation are those who have been convicted in connection with terrorist outrages. The Government of India do not propose to take any special measures to ascertain the views

of the people of Bengal. Throughout they have been in the closest consultation with the Local Government.

(b) I am aware of no solemn and definite assurance given by Government in 1922, such as is referred to by the Honourable Member. I find that on the 11th March, 1921, Sir William Vincent speaking in the Legislative Assembly said that the Government of India had issued orders that all political prisoners should be immediately returned from the Andamans. That was in accordance with the policy that was being pursued of closing down the Andamans as a penal Settlement as rapidly as possible. But the Government of India have always retained discretion to send to the Andamans, if necessary, convicts whose removal from British India was considered to be in the public interest. A recommendation to this effect was in fact included in the Jail Committee's Report. It is in accordance with this principle that it has been decided to send certain of the Bengali terrorist convicts to the Andamans.

(c) No, Sir.

DEPORTATION OF POLITICAL PRISONERS TO THE ANDAMANS.

510. ***Mr. S. C. Mitra :** (a) How many of the prisoners about to be deported to the Andamans are Bengalis and how many of the Bengalis are (1) punished with transportation for life, (2) guilty of serious breach of jail discipline, (3) women prisoners, (4) detenues, (5) convicted for civil disobedience and (6) convicted for terrorist activities ?

(b) In the case of those not punished with transportation for life, are Government aware that in the absence of amendments to the Indian Penal Code, the Jails Committee in 1919 maintained that objection might reasonably be taken to a prisoner who has been sentenced by a Court to rigorous imprisonment being deported to Port Blair ?

The Honourable Mr. H. G. Haig : (a) I am afraid I cannot undertake to give detailed information about the Bengali prisoners who are being sent to the Andamans. I would only say that none are being sent who have not been convicted in connection with terrorist crime.

(b) I am aware that the point was mentioned by the Jail Committee. But they pointed out that this action was legal, a view with which the Government of India are in agreement.

Mr. K. C. Neogy : With regard to (a) of the question, is it not a fact that some of the prisoners transferred to the Andamans have been sentenced to comparatively short terms of imprisonment ?

The Honourable Mr. H. G. Haig : I am not sure about that, but the point is not the length of the sentence but the nature of the offence for which they have been convicted.

Mr. K. C. Neogy : With reference to a statement which the Honourable Member made in reply to another question a few days back, that although these prisoners were sentenced to definite terms of imprisonment, the period for which they will be confined in the Andamans will depend upon,—I really do not remember the exact words,—will depend upon the circumstances or some such thing, may I take it then that there is a possibility of these prisoners being detained in the Andamans even after their definite terms of imprisonment have been served out ?

The Honourable Mr. H. G. Haig : No, Sir. That would be an impossibility.

Mr. S. C. Mitra : Will these deportees include also women prisoners who are considered as terrorists ?

The Honourable Mr. H. G. Haig : I think the Honourable Member has a question down on that subject.

DEPORTATION OF WOMEN POLITICAL PRISONERS TO THE ANDAMANS.

511. ***Mr. S. C. Mitra :** (a) Are Government aware of the recommendation of the Indian Jails Committee, 1919-20, to exclude all female convicts from being sent to the island of Andamans on account of absence of all reformatory influences and the resulting demoralisation of prisoners ?

(b) Will Government please state what special arrangements have been made for women proposed to be sent to the Andamans as regards their location and guard for their safety while in the Andamans ?

(c) What special arrangement has been made for the protection of their female virtues in the midst of a large number of old convicts and low class guards ?

(d) Are Government aware of the Rajeswari case of Chittagong, which came to public notice and before a Criminal Court ? Will Government be pleased to state what arrangements they have made to prevent such cases of criminal assault on political women prisoners of high education and of good and respectable families while they will be kept in the Andamans ?

The Honourable Mr. H. G. Haig : (a) The Government of India are aware that the Jails Committee in paragraph 572 of their report recommended that female prisoners then in the Andamans should be brought back to India and that no further female prisoners should be deported there. This recommendation should be read with their recommendations regarding the Andamans as a whole. The Committee suggested firstly, the gradual closing down of the Settlement as accommodation became available in Indian jails by repatriating convicts to India and by deporting no more prisoners from India and, secondly, the maintenance of a jail at Port Blair for a limited number of prisoners whose removal from British India is considered to be in the public interest. As an exception to this policy of gradual removal they proposed that all the women prisoners could be repatriated at once without causing any practical difficulty on the score of accommodation in Indian jails as their number was small. The Government of India agreed to this recommendation as the repatriation of the female prisoners would make available the female jail at South Point for the accommodation of male convicts. There was also the fact that the conditions described in paragraph 551 of the Jail Committee's Report made it at that time undesirable that women prisoners should be retained in the Andamans, but these conditions no longer exist and the features of the Settlement have profoundly changed since the Jail Committee wrote their report.

(b), (c) and (d). The women prisoners sent to the Andamans will be confined in a wing of the Cellular Jail, Port Blair, set apart for female prisoners and will be entirely separate from other prisoners in the jail and from the settlement. The apprehension expressed by the Honourable

Member in part (c) is unfounded, since a female staff is in charge, and male convict warders are not allowed within the wing set aside for female prisoners.

Mr. S. G. Jog : Is it a fact that any prisoners not detained under this Act are being sent to the Andamans from the Bombay Presidency ?

The Honourable Mr. H. G. Haig : What Act does the Honourable Member refer to ?

Mr. S. G. Jog : I am talking of regular prisoners. I refer to Mr. P. M. Bapat who is undergoing sentence in the Bombay Presidency and he is nearly finishing his sentence. It is rumoured that he is to be transferred to the Andamans.

The Honourable Mr. H. G. Haig : Certain prisoners convicted of terrorist offences are being transferred to the Andamans. Otherwise the ordinary rules are being observed. From certain provinces certain convicts are sent even now in the normal course to the Andamans. Of what offence was Mr. Bapat convicted ?

Mr. S. G. Jog : The prisoner I am referring to was convicted under section 124-A for seven years.

The Honourable Mr. H. G. Haig : I have no information about any such proposal.

Mr. S. G. Jog : Will the Honourable Member kindly find out some information because there is some feeling in this matter in the Bombay Presidency on account of a thick rumour that he is going to be transferred from the Bombay Presidency.

The Honourable Mr. H. G. Haig : I am quite prepared to ascertain the facts.

DEPORTATION OF DETENUS AND CIVIL DISOBEDIENCE MOVEMENT PRISONERS TO THE ANDAMANS.

512. ***Mr. S. C. Mitra :** (a) Is it a fact that detenus and prisoners convicted for civil disobedience are being sent to the Andamans ? Are Government aware that Sir Samuel Hoare made a statement in Parliament, that only prisoners convicted for terrorist crime would be deported to the Andamans ? If so, will Government be pleased to state whether in the face of the Secretary of State's statement Government propose to deport detenus and prisoners convicted for civil disobedience ? If so, why ?

(b) Will Government be pleased to state whether proper arrangements have been made for the accommodation of the prisoners proposed to be sent to the Andamans ?

(c) Will they please state whether such deportees will be confined to the Cellular and Associated Jail at Port Blair or will they be made to live in the society of the criminal prisoners now living there allowing them close relationship with the men in the settlement ? In case of the latter, are Government aware of the grave risk of demoralisation of the deportees, who are mostly of young age ?

The Honourable Mr. H. G. Haig : (a) The Honourable Member is under a complete misapprehension. The Government of India's policy

is strictly in accordance with the statement made by the Secretary of State in Parliament. Detenus and prisoners convicted for civil disobedience are not being deported to the Andamans.

(b) Adequate arrangements are being made in consultation with the Government of Bengal and the Chief Commissioner, Andamans.

(c) The prisoners will be confined in the Cellular Jail, entirely segregated from other prisoners and removed from all contact with the settlement. For this policy there are other reasons besides those suggested by the Honourable Member.

Mr. D. K. Lahiri Chaudhary : Will the Honourable Member state the other reasons ?

The Honourable Mr. H. G. Haig : We think that there is some possibility of contamination working in the opposite direction.

Mr. B. Das : Will the Honourable Member give me an assurance that every case of a terrorist prisoner to be deported to Andamans will be examined by the Honourable Member himself ?

The Honourable Mr. H. G. Haig : No, Sir. I do not examine every case myself.

Mr. B. Das : Would it not be better to allow the Government of India to exercise some check over the recommendations of Provincial Governments about transportation ?

The Honourable Mr. H. G. Haig : We are concerned fortunately in this matter with only one Provincial Government and the general principle is very well understood between the Government of India and the Government of Bengal. It is not necessary for the Government of India to go into every individual case.

Mr. B. Das : May I just remind the Honourable Member of the particular case referred to by Mr. S. G. Jog ? I know Mr. Bapat. He was at times accused of anarchist connection.

The Honourable Mr. H. G. Haig : That, Sir, was quite a different case. No one apparently has suggested that Mr. Bapat was convicted of a terrorist offence.

Mr. K. C. Neogy : Have the Government formulated a different set of rules for the guidance of the prison authorities in the Andamans, which will apply to the case of the terrorist prisoners ?

The Honourable Mr. H. G. Haig : There is no separate set of rules, Sir, except that they will enjoy the privileges of classification which apply to ordinary prisoners in the jails in India.

FACILITIES FOR POLITICAL PRISONERS IN THE ANDAMANS.

513. ***Mr. S. C. Mitra :** Will Government be pleased to state whether proper arrangements have been made in the Andamans providing adequate number of staff and proper equipment of residences and hospitals, the absence of which was so strongly criticised by the members of the Indian Jails Committee, 1919-20 ?

The Honourable Mr. H. G. Haig : The answer is in the affirmative. The settlement is provided with an adequate and competent Medical Staff, and well equipped hospitals.

MEASURES TO COMBAT HIGH DEATH RATE IN THE ANDAMANS.

514. ***Mr. S. C. Mitra** : What measures have been taken to preserve health and to remedy the high death rate which prevailed in the Andamans ? Is it a fact that this was the strong reason for abolishing the penal settlement ?

The Honourable Mr. H. G. Haig : With your permission, Sir, I will reply to questions Nos. 514 and 515, together. The Government of India have taken all possible measures to improve the health of the settlement to which they attach great importance. Medical facilities are available within a few miles of every village and adequately equipped hospitals have been provided. Health statistics show a steady change for the better. The principal measure taken to check malaria has been the reclamation of the salt swamps, the chief breeding ground of the mosquito, at a total cost of some 23 lakhs of rupees. The greater number of breeding grounds have now been eliminated from the vicinity of the settlement.

Mr. Gaya Prasad Singh : Is it a fact that the measures taken to reclaim these salt swamp has resulted in only an infinitesimal portion of the land being reclaimed and that the major portion of the land is still in an insanitary and unhealthy condition ?

The Honourable Mr. H. G. Haig : I understand that the Andamans cover a large area but so far as the inhabited portion is concerned, the measures taken, have, I believe, effected a marked improvement in health conditions.

Mr. Gaya Prasad Singh : In the majority of the inhabited areas ?

The Honourable Mr. H. G. Haig : In the inhabited area, yes.

MEASURES TO COMBAT MALARIA IN THE ANDAMANS.

†515. ***Mr. S. C. Mitra** : What measures have been taken to check the unusually heavy incidence of malaria in the Andamans ? How far has the process of reclaiming salt swamps or of shutting out salt water by means of sluice gates as recommended by the Indian Jails Committee been carried out and with what result ?

COOKING OF FOOD FOR PRISONERS IN THE ANDAMANS.

516. ***Mr. S. C. Mitra** : What special arrangement has been made in the Andamans about the cooking of food for prisoners belonging to the different provinces ?

The Honourable Mr. H. G. Haig : The food for all prisoners confined in the Cellular Jail is normally cooked by convict Brahmin cooks from the United Provinces. Two Bengali convict cooks, however, who volunteered for the Andamans, have been transferred there, and will cook exclusively for the Bengali terrorist prisoners in the wing of the Jail which has been set apart for them.

ARRANGEMENTS FOR THE SUPPLY OF REFORMATORY INFLUENCES IN THE ANDAMANS.

517. ***Mr. S. C. Mitra** : What arrangements have been made to supply reformatory influences to the deportees in the Andaman islands in the

†For answer to this question, see answer to question No. 514.

form of (1) religious teachers, (2) educational facilities, (3) libraries and other institutions, which will fit prisoners for a healthy moral life as members of society on eventual release? Are Government aware that the absence of those facilities was one of the grounds for the Jail Committee's recommendation to abolish the penal settlement?

The Honourable Mr. H. G. Haig : I presume the Honourable Member has in view the conditions described in paragraph 549 of the Indian Jail Committee's Report. I need hardly say that the conditions since the Report was written have been altered completely. There are a number of places of worship, and schools are provided for both boys and girls in various places. These conditions, as no doubt the Honourable Member understands, do not apply to the Bengali prisoners who are being sent to the Andamans. They will be detained in the Cellular Jail under conditions similar to those obtaining in a jail in India.

APPOINTMENT OF A VISITING BOARD FOR THE ANDAMANS.

518. ***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether a visiting board has been appointed to restrain the prison authorities from maltreating the prisoners and to see that the reforms considered so urgently necessary by the Indian Jails Committee in the Andamans are properly carried out?

(b) In the absence of a non-official visiting board what opportunities would the prisoners have of bringing their grievances to the notice of the higher authorities and getting proper redress?

(c) Will Government please state whether special arrangements have been made to obviate the difficulty of the control and supervision of the work effectively, in view of the great distance of the Andamans from the Headquarters? If so, what?

The Honourable Mr. H. G. Haig : (a) It is not possible to constitute a visiting board for the jail at Port Blair owing to the absence of local non-officials qualified to be members of such a board, but I must definitely repudiate the suggestion that without a visiting board the prison authorities are likely to maltreat prisoners. The prevention of ill-treatment is secured by the ordinary discipline of the jail.

(b) and (c). The Honourable Member is under a misapprehension. Prisoners are not denied an opportunity of bringing their grievances to the notice of higher authorities. Convicts in the jail can make representations through the Superintendent to the Chief Commissioner. Those out in the settlement can petition any higher authority up to the Chief Commissioner, on any matter.

Mr. H. P. Mody : Do the Government of India consider it right and proper that they should do away with any sort of control over the jail administration in the Andamans? What arrangements have they made to see that that administration is carried out on humane lines?

The Honourable Mr. H. G. Haig : The Honourable Member suggests that the Government of India are doing away with all control in the Andamans. I have just explained that it is not possible to have that particular form of control in the Andamans and that it never has been possible.

Mr. H. P. Mody : What sort of control exists over the Andaman administration other than that of the jail authorities. Is there any sort of supervision exercised from any quarter over the jail administration of the Andamans ?

The Honourable Mr. H. G. Haig : The important control over the conditions in a jail is the control of the Superintendent and that exists in the Andamans as it exists elsewhere.

Mr. D. K. Lahiri Chaudhury : Are the Government of India aware
12 Noon. that there is a very strong feeling throughout the country about the maladministration of the jails ?

The Honourable Mr. H. G. Haig : I am aware, Sir, that certain allegations are made in connection with prisoners who have been convicted in connection with the civil disobedience movement.

Mr. H. P. Mody : Do the Government of India regard as adequate the control of the Superintendent of a jail over the prisoners ?

The Honourable Mr. H. G. Haig : The Honourable Member seems to be under some misapprehension as to what constitutes control. The control in every jail is the control of the responsible officials.

Mr. H. P. Mody : And what about checks and supervision ?

The Honourable Mr. H. G. Haig : It is also provided no doubt that there should be a Board of visitors which visits the jail perhaps once a month, but that is not the real control that is exercised over the jails.

STATEMENT WITH REGARD TO THE TREATMENT OF MR. GANDHI.

The Honourable Mr. H. G. Haig (Home Member) : Sir, with your permission, I should like to acquaint the House with certain developments in connection with the Government's intentions with regard to the treatment of Mr. Gandhi. In the statement which I made in this House on the 15th September, it was announced that Government had decided, as soon as Mr. Gandhi actually begins his fast, he should be removed from the jail to a suitable place of private residence, and that the only restriction that would be imposed upon him would be that he should remain there. The intention was that he should in this way be accorded full facilities for discussing the problem of the Depressed Classes and for endeavouring to effect an agreement with them.

Mr. Gandhi has addressed the following telegram to the Private Secretary to H. E. the Viceroy :

“ Have just read with considerable pain announcement of Government's decision to remove me on commencement of contemplated fast to unknown private residence under certain restrictions. To avoid unnecessary trouble and unnecessary public expense, also unnecessary worry to myself, I would ask Government not to disturb me, for I will be unable to conform to any conditions as to movement from place to place or otherwise that may be attached to foreshadowed release.”

Government, while regretting Mr. Gandhi's decision, have no wish to force upon him arrangements which are distasteful to him. He will, therefore, in accordance with his request, be allowed to remain undisturbed in the Yeravada Jail. At the same time, the Government are

most anxious that this change of plan should not affect the opportunities for discussion of the Depressed Classes problem, which, they had contemplated, should be available for him. They have, therefore, decided that, unless subsequent developments render any change necessary, he should receive in the jail all reasonable facilities for private interviews with such persons or deputations as he may wish to see, and that there should be no restriction on his correspondence. (Loud Applause.)

THE CHILD MARRIAGE RESTRAINT (AMENDMENT) BILL.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, on the last occasion I was referring to the statement of my Honourable friend, Kunwar Raghubir Singh, that in the constituency, from which he came, the Brahmins have mostly adopted the custom of post-puberty marriage and that, therefore, the provision for exempting Brahmins from the Bill, that I have now asked this House to be taken into consideration, would cause hardship to them. Now, what I want to explain in regard to that provision is, that where there is any community in British India which has adopted the system of post-puberty marriage including the Brahmin community, that community is not going to be affected by my Bill. All that I want to do is that in British India, if there is a Brahmin community or a Vaishya community or any other communities that may like to come in, which are governed by Shastras which, they believe, prohibit them from contracting post-puberty marriages, my Bill seeks to exempt them the penalties of the Sarda Act. That is all that my Bill seeks to enforce. I had expressed my surprise that in Muttra, one of the holiest of places in Northern India, the Brahmins of all communities should have adopted the system of post-puberty marriages as a custom, and my Honourable friend, Mr. Jadhav, also interjected by saying that throughout the Maharashtra the same thing has happened. Now I do not know anything about Maharashtra, but only three days before Mr. Jadhav delivered his speech here, a resolution had been sent to me, passed by the Brahmin Maharashtra Provincial Swarajya Sangha which records its strong protest against the enactment of the Sarda Act and expresses its firm opinion that it should be repealed immediately, and the resolution then proceeded to support my Bill. A work of supererogatism. The facts, therefore, Sir, are overwhelming in my favour if the Maharashtra Brahmins had adopted post-puberty marriages on a large scale. That resolution is open to my friend's inspection if he cares to see it.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : I know who the people are who framed and passed that resolution.

Raja Bahadur G. Krishnamachariar : While, therefore, any community including the Brahmins which has adopted this post-puberty marriage custom will in no way be affected, the whole trouble is with reference to those who believe that post-puberty marriages are against the Shastras, that it is a sin to contract a marriage after a girl has attained puberty, and that the father and others incur the greatest penalty if the marriage of a girl is not celebrated before her puberty. Now, Sir, with regard to that I have already cited the opinion of one of the most eminent Law Members of the Government of India regarding the true nature of a Hindu

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marriage and I have also cited the Queen's Proclamation and the Parliamentary Statutes whereby the system of Hindu marriage has been protected against interference by the State. Now there are one or two documents to which I would very respectfully invite the attention of this House, and the first and the most important is the proclamation by Lord Canning ; this proclamation was ready one year before the Queen's Proclamation. We all know about the story of the greased cartridges and how they were supposed to be one of the causes of the Mutiny. Now, at that time, when the whole of India was in a state of turmoil, Lord Canning issued this proclamation :

“ The Government have invariably treated the religious feelings of all its subjects with the greatest respect. The Governor General in Council has declared that it will never cease to do so. He now repeats that decision and emphatically proclaims that the Government of India entertains no desire to interfere with their religion or caste and that nothing has been or will be done by the Government of India to affect the free exercise of religion or caste by every class of people.”

Now, at the time when Lord Canning issued that proclamation, the Government of India believed, if I may say so, that they were not quite safe in their places and that any moment they might get into very serious trouble.

Now, Sir, from that day up to the year 1920, that is practically up to the introduction of the new Reforms, the Government of India have consistently and, without any exception, acted according to that principle. Now, that principle has been put in terse language by Sir Reginald Craddock as follows :

“ It has been an article of faith with the British Government to hold aloof from any interference with the religion or social customs which are closely intermixed with Religion and Government in this matter occupy a position of trust (*mark these words*) to the many millions who profess these very creeds.”

I shall make use of the words “ Government occupy a position of trust ” in connection with my later submission that I shall make in this House. Now, Sir, although there may appear to have been some vacillation regarding this principle at the time when the Honourable Mr. Sarda introduced his Bill and when it was being discussed, the present Law Member has, in a speech which he delivered on the 3rd February, 1931, made the position quite clear in the following words :

“ We have got two ancient codes of Law in this country. Those systems of Law, the Hindu and the Muslim systems of Law, have preserved Hindu society and the Muslim society through all the centuries. Do not play with these systems of Law by bringing forward this sort of piecemeal legislation. It is destructive of the whole structure which has preserved these societies for all these long centuries. It undermines the very foundation upon which these social institutions are based and the institution of marriage is one of the fundamental bases of their foundation.”

Now, Sir, those words were followed by an eloquent appeal not to play with the laws relating to marriage and this Assembly promptly responded to the appeal by rejecting summarily the Bill that was then before it. The position, Sir, to sum up, is this, that for 150 years, practically from the time of George III, the Government have been acting upon the principle of non-interference with religion. Why, then, did they do it in the case of the Sarda Act ? It cannot be said that it is not against the principles of the Hindu religion, because I will refer you to the minute of dissent recorded

by Pandit Madan Mohan Malaviya who did not oppose the last Bill. All that he said was that if, instead of 14 years, the age was fixed at 12, he was quite willing to agree to that whole Bill. Pandit Madan Mohan Malaviya, as we all know, was a very respected Member of this Assembly and his words carried great weight on questions of Hindu law and the rites and ceremonies.

This is what he says :

“ To make a marriage above the age of 12 and below the age of 14 punishable by law will be a violent interference with the Hindu religion.”

There is only one more quotation that I should like to make in this connection and that is the opinion of a stranger. He does not belong to the Hindu society ; he is not an orthodox Brahmin and he did not come with any mark on his forehead in order to show his triumph or discomfiture or his backwardness. His name is Brailsford. He came down to India in order to find out the conditions at the time when Miss Mayo did us the honour of publishing her book against us. Referring to the Sarda Act, he says :

“ It meant a break with organised religion to which in Catholic Countries we should find a parallel only after a political revolution ; more startling still that this defiance of revealed religion and the Scriptures could be launched while the masses are still submissive to its teaching.”

So, Sir, our only fault is that we did not start a political revolution against the principles of the Sarda Act. The result is that my Honourable friend, the Home Member, who was very courteous in his interview, told us—where is the agitation, who are agitating ? He was perfectly right. If we had started a political revolution and if a few heads had been broken at each place, probably the agitation would have been recognised just as the Civil Disobedience Movement has been recognised by Government now. Unfortunately, the orthodox classes and masses, who constitute 90 per cent. of the community, relied upon the trust that Sir Reginald Craddock declared to the world the Government of India held in respect of these people and believing in that trust. They said, what is the use of agitating ; the Government would look after our interests. Now, Sir, that very Government threw their trust back on God Almighty and have passed a law interfering with our religion. Apart from the compliments that my Honourable friend, Sir Hari Singh Gour, has heaped upon my head, the Honourable the Home Member asked me very quietly where is your agitation ? This he did, Sir, in such a persuasive way that, if the subject was less serious, I would have withdrawn my Bill and gone home. And all this because I did not break my head or the heads of others ! That is the position, Sir. The point is that for 150 years you have ruled in this country without interfering with our religion. How is it, then, that you have interfered now ? There is no question you have done so now and I have adduced proofs as above. In spite of all the experience that I have had during the last 35 years, it is impossible for me to produce any more evidence in order to prove this, because proof is not a mathematical certainty ; it is the belief in the existence of a certain state of things by reasonable men who are not prejudiced either way. Well, Sir, I cannot produce any more proof regarding that. So far as I am concerned, I must say that it is impossible for anybody to prove that the Sarda Act is not an interference with the Hindu religion. Why did they, then, interfere ? Is it because they were oppressed by this scurrilous pamphlet of Miss Mayo ? There

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was a little bit of light let into this mystery when the Sarda Bill was being discussed. An orthodox deputation came from Bengal to the then Home Member. The Home Member said : "What can we do ? There is a pressure from England and we have been asked not to oppose this Bill." He did not say so in so many words, but substantially this is what the Honourable the Home Member said at the time in answer to the deputation that came from Bengal. Sir, I am not concerned with what they do or say ? These old faddists in England who have got plenty of money, who have got nothing to do, who would not look to the big slums in the East end of London, who would not, in the words of Gandhiji, relieve the suffering of their own people ; but their sympathies have gone six thousand miles away towards people whose habits are different, whose views are quite different and whose outlook on life is quite different and whom they do not understand except through what their missionaries tell them for the purpose of making money. Now, Sir, I have no quarrel with them—they are very amiable men, but these missionaries have got to live. They were going to convert the whole of India into Christianity in one day. According to the latest Census report, there are 65 lakhs of old maids among them and these busy ladies say, ' we must reform the Hindu society ' and, I ask, are the Government going to believe all that they say and believe them ? I am not concerned with this or that or any other. I am only concerned with one thing, that is, are they or are they not going to respect their pledges ? Are they going to yield to the croaking of faddists in England who do not understand what is expected of them ? When they open their eyes later on, they will find their Empire is in danger and probably it will be lost. Because, these pledges are even more sacred and even Government might not play with these even when you want to meet an agitation like that of Miss Mayo. In the olden days, we had one of the most distinguished, one of the most Christian Viceroys that ever came to India, the Marquis of Ripon. During his time, there was a very violent agitation which we all know as the Ilbert Bill agitation ; at that time, there was a gentleman who was a Member of the Imperial Council as it then was. Unfortunately, he was the Collector of my District, the Honourable Mr. Thomas, and he repudiated the pledges solemnly made by previous Government. He said, " Oh ! they were all diplomatic documents, they are not in any way binding ". The Viceroy pulled himself up to his full height, it was the Marquis of Ripon, and this is what he said :

" Any attempt to whittle it down, if accepted by the Government of England, would do more harm than anything else could possibly do to strike at the root of our power and to destroy our just influence, because that power and that influence rest upon the conviction of our good faith more than upon any other foundation, aye, more than upon the valour of our soldiers and the reputation of our arms "..... " I have read in a book, the authority of which the Honourable Mr. Thomas will admit that ' Righteousness exalteth a nation ' and my study of history has led me to the conclusion that it is not by the force of her armies or by the might of her soldiery that a great Empire is permanently maintained, but that it is by the righteousness of her laws and by her respect for the principles of justice. To believe otherwise appears to me to assume that there is not a God in Heaven who rules over the affairs of men, and who can punish injustice and iniquity in nations as surely as in the individuals of whom they are composed ".

So that, Sir, in those eloquent words, invoking the God Almighty and reminding the Government of India of the numerous pledges, pledges after pledges that have been made and asseverations and assertions that were

made up to the present day. I say in the name of all that, do not interfere with our religion and if you have once done so, please set things right now. Or, is it, apart from all these minor considerations, that you have changed your policy. Have you now swerved from the position that you took at the time when you knew that these various communities and creeds might give you trouble and might not enable you to fix up your power unshaken, or have you changed your view? I do not mind your changing your views. By all means do change your views, but for Heaven's sake, please say, "I do not care, I am going to interfere with religion". Let the large mass of the Indian population know that the British Government have changed their policy and that they will no longer care for the religion of their vast Indian subjects, but that if the Government are pressed by a Miss Mayo or by some other busy-body like Miss Rathbone if the Government are going to be pressed by these ladies they are going to interfere with religion; let the Indians know all these. I want an answer now or hereafter on the numerous occasions that might arise in the course of the discussion on this and other Bills whether Government have changed their views, have they made up their minds to interfere with religion. I do not mind. I shall not be sorry. I shall probably not be living when the results of that change will come on. But there is a God in Heaven who will punish the injustice in any nation in the same way as in individuals. Then Nemesis is bound to overtake them. Sir, the Muhammadans have been accused of fanaticism, they have been accused of compulsorily converting their subjects when they were the Rulers of the land. But, this is a slanderous lie in the face of what is said in the Koran. There are only two matters that I would invite the attention of the Government to, in order to show how their predecessors, the Muhammadan rulers, who are supposed to be fanatic, and who perhaps did show fanaticism on certain occasions, acted as regards religious rights. The first is the provision in the Muhammadan law about *Zimmis* who are the non-Muhammadan subjects of Muhammadan countries. The Prophet and, after him, the holy men who were the authors of the traditions (Hadis) have distinctly declared: "Do not lay your hands upon the properties, do not go and interfere with the religion, of your subjects". I have some knowledge of Muhammadan law both in its advocacy as well as in its administration and I know there is nothing in the Muhammadan law which enjoins the interference with the religion of other people. There is another matter, and I do not know if the attention of the Honourable Members has ever been attracted to it, that is, the institutes of Tamerlane. Probably all people know him only as the worst tyrant and nobody has a good word to say about him anymore than that. But there is a book called the institutes of Tamerlane where twelve golden principles have been enunciated by him for the edification of his successors. I should very much like those responsible for the Government of India to turn their attention to those institutes of Tamerlane and review their principles of governing, though it would be rather a peculiar place to go to in order to learn their principles of governing. What does Tamerlane say? He says, 'I enjoin upon my descendants that if they want to keep up the inheritance that I have created, with such great trouble, for them, they should not interfere with the religion of any country'. Now, Sir, a reference to that would be found in the speeches on the Impeachment of Warren Hastings, the official edition published by the India Office. There you find all these things, so that what I say is this, 'do not interfere lightly with our religion'. If you are going to act as a strong Government which have absolutely nothing

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to fear, correct your mistake which you once made. But then they say, "this is not the first time we have interfered with religion, when the situation arose in the olden days, we have done that". Sir, I do not go very much into ancient historical precedents. I will go to the Age of Consent Act, i.e., the amendment to the Penal Code in 1891. I do not want to waste much of the time of the House by unnecessarily referring to the laws relating to the abolition of *Sati* and to the Widow Re-marriage and all other Acts. I have got quotations relating to all these, but I shall not waste the time of the House by reading all these. I will straightaway go to the Age of Consent Bill. But, before I do so, I have to refer to a committee to which my Honourable friend gave a very good certificate in the previous discussion. Now, the Age of Consent Committee say a few words in regard to those who supported this Bill. Two propositions have been laid down by the Age of Consent Committee which I hope my Honourable friends who do not agree with me will note, namely, the fact that you have interfered on previous occasions even in matters of religion is absolutely no ground why you should again interfere in the matter of religion. That is the first proposition laid down at page 101 of the Age of Consent Committee Report. The next proposition which they have made is this, it is perfectly true that the Government of India have professed to interfere in matters affecting religion, but they interfered only with civil rights, they never interfere with religious rites and ceremonies. All that they did was to interfere with the civil rights that flowed from marriage and other laws like these. You will find a reference to this at page 105 of the Age of Consent Committee's Report.

Now we all know the agitation that took place at the time when this Age of Consent Bill was being discussed. I will only quote two or three sentences, because they are very much apropos of the present position and of the statement made by the Honourable the Home Member that after all the evidence that they collected they found that the evil existed. This is what His Excellency Lord Lansdowne said at that time :

"In cases where demands preferred in the name of religion would lead to practices inconsistent with individual safety and the public peace and condemned by every system of law and morality in the world, it is religion and not morality that must give way."

"Practices inconsistent with individual safety and the public peace and condemned by every system of law and morality in the world" cannot be advocated by any religion. We cannot imagine that a religion which professes to emanate from God Almighty would encourage acts condemned by every system of law and morality because these are fundamental eternities. They are eternal verities and they are not changed by time, circumstances or climate, just like the precept "Speak the truth", which is an eternal verity which holds true since creation right up to now. This marriage and this betrothal which are laid down by the Shastras which some people believe as revealed truths, can they be classed as practices condemned by every system of law and morality? If you can honestly say so, if you can get a body of reasonable men who can say that this custom is one which is condemned by every system of law and morality in the world, by all means put a stop to it and I shall be the first person to put down my signature to it.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What about the finding of the members of the committee who reported on the matter ?

Raja Bahadur G. Krishnamachariar : I do not know what they found and I am not sure at all that they found anything except that they made a *golmal* of everything without themselves understanding it.

Then Lord Lansdowne goes on :

“ In cases where there is a conflict between the interests of religion and those of morality the legislature is bound to distinguish, if it can, between essentials and non-essentials, between the great fundamental principles of the religion concerned and the subsidiary beliefs and reactionary dogmas which have accidentally grown around them.”

I close with that. These are the two conditions upon which His Excellency Lord Lansdowne supported the Age of Consent Bill. Is this or is this not fundamental ? Or is it only a non-essential ? Who found this out ? Who tried to find it out ? I have got the greatest regard for my friend Mr. Sarda, but I have yet to learn that he is a serious student of the Shastras and he knows the Shastras to the extent to which you ought to know them. It is not an attack upon him. I do not know so many things, and my Honourable friends here do not know so many things. It is not an attack upon them. We are all educated in a certain line, but if you profess to tackle Hindu law, if you profess to say that what exists is not correct, if you want to claim immortality by changing the law which has been in existence for five thousand years and more and if that is your ambition, you must understand the law yourself. You must be able, in the words of Lord Lansdowne, “ to distinguish between the non-essentials and the essentials ”. Then say to the world that it is not obligatory according to your religion and therefore you are going to change it. If you do that, you will be perfectly in order and we shall have no objection. But no such attempt has been made ; whereas the extent of knowledge that my friend Mr. Sarda exhibited, the extent of knowledge which our friends in the Select Committee still further exhibited, unfortunately to their great discredit, is that a very important verse which occurs in at least six *Smritis* has been held by Mr. Sarda to be based on a school text-book, put up by some malicious man who I suppose was hungry at the time and did not know what to do and therefore concocted this *sloka* and put it there. No, Sir, that is not the way in which to tackle an ancient religion. In the eloquent words of the present Law Member, do not go and play with a religion which has kept up your society all these centuries.

Now, Sir, that is so far as the religious aspect of the case is concerned. My Honourable friend, the Home Member. I am afraid, has not been served properly. I do not think he would have had any time to delve into the whole past history of the Bill deeply. So he must have received a brief, and that brief, whoever prepared it, did not unfortunately serve him rightly when he said that this Sarda Bill was proceeded with with the same caution that Sir James Crerar said should be followed at the time when the Bill was introduced. I have already read the passage from his speech and I will not repeat it. What happened was this. The Legislative Assembly declined to allow the Bill to be circulated and so the Bill went to the Select Committee, and the Select Committee

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had before it certain opinions collected by Government. In answer to a question that I put to Government early last year as to the object with which these opinions are collected when a Bill of this nature is introduced, it was said that it was only to determine what the attitude of Government shall be. It is therefore not for the purpose of finding out whether the Bill is an essentially necessary doctrine of Hindu law or whether it is demanded of the people. Therefore they go to the Local Government who give some sort of opinion, and but for Miss Mayo's interference they would have followed the Local Government's opinions. The opinions they collected are generally of men who *a priori* would immediately agree to it, enlightened men who have travelled all over the country and who say that this country is going from bad to worse, men whose predilections are in favour of these reforms ; and it is only these gentlemen who, because they are well-known or because they shout the loudest, get these references. And even of these persons to whom the Bill was referred, they were not all unanimous with regard to the Bill. The result was that my friend Mr. Sarda's Bill was thoroughly condemned. I ought not, really speaking, in justice to Mr. Sarda, complain against his original Bill, because he proceeded then with a great deal of consideration for the views which I have the honour or misfortune to represent in this House to-day. He said that according to his own reading of the Shastras they lay down a certain thing, but that the orthodox community held different views and he was not going to tread upon their corns ; so he gave them a limit of 11 years and even then he would give discretion to the court to excuse or not to excuse if there was any conscientious objection. That was the Bill that my friend, Mr. Sarda, introduced ; and if unfortunately he had not proceeded further and declared that a marriage performed in that manner was invalid,—a thing which you can never declare,—if he had not done that, his Bill would have gone through. There would still be agitation ; men like myself, back numbers, perhaps, would still object that the Government of India are violating their pledges ; but, so far as the present state of the community is concerned, it would not affect them much, because I have absolutely no objection from my place in this House to accept that at least 80 per cent. of the marriages take place after the girl attains the age of 11. That Bill was wiped out ; and the wise acres of the Select Committee said that because some men, some half a dozen people said : “ this declaration of invalidity of marriage will not do ; punish them all ”, these people grasped the idea and they said “ All right ; we will make it a penal business ” ; and it is that penal business that was again referred to the country ; to whom ? to the missionaries and to all these enlightened gentlemen—very good and estimable gentlemen, who probably are superior in intelligence and position and rank and wealth and everything to me, but unfortunately utterly unfit to give an expression of opinion on this point. I am not exaggerating ; by temperament and by training I am not given to exaggeration ; the opinions are all here collected ; not many ; you can dispose of them in a morning's sitting if you sit and read the whole thing ; and that is the Bill that has been circulated for opinion ; and that is what my Honourable friend claimed to have been acting with the greatest caution. There is only one passage that I would invite his attention to. I know he has got very great regard and rightly too for his predecessor and perhaps he

will put that regard into practice when he finds out what he really thought about the opinions that had been collected regarding this Act :

“ The most important consideration therefore is whether the principle of the Bill has secured support or is likely to secure the support of a sufficiently large majority of the Indian public.”

This was in 1921, when Mr. Crerar, as he then was, was Secretary to the Bombay Government, and was writing as the mouth piece of that Government far away from the turmoil of the Mayas and Rathbones :

“ That it has secured such support cannot at present be admitted, as there has been no referendum to the people on the issue. Whether it is likely to secure such support can only be decided when there has been sufficient opportunity for the expression of opinion. I am to observe that the opinions actually obtained by the Government of Bombay are fairly evenly divided, but I am also to observe that these opinions have been sought for in quarters likely *a priori* to be most favourable to the Bill, *viz.*, among some of the most enlightened and advanced elements of the community and amongst those who are most likely to be influenced by considerations of legislative theory rather than by sentiment or religious conviction. There can be little doubt that effective support of the Bill will come from a very limited section of the community. For their enlightenment and desire for progress, Government must have every consideration and sympathy. On the other hand, Government must consider closely their own position and that of the general public. It would, in the opinion of the Governor in Council, be a dereliction of duty ”—(*I want my Honourable friend to listen to these words*)—“ on their part to support legislation so fundamentally affecting the prejudices and sentiments of a vast majority of the population without the clearest and most convincing proof that not only will such legislation be acceptable but that it is urgently demanded.

I am to state that for the purposes of the present reference consultation of opinion has necessarily been of an exceedingly restricted character.”

I do not want to prolong the agony, but this is rather important :

“ For this purpose, the ordinary procedure of publication and of consultation with a few selected and judicial and executive authorities and even adding to this (what has not been feasible on the present reference) the consultation of particular individuals and unofficial associations and organisations is quite inadequate. A much more extensive invitation of the public opinion of all sections is necessary.”

I shall only lay stress upon this point :

“ In order to enlist the support of Government, the promoters of the Bill, after conducting in the interval a campaign of persuasion and instruction, should lay it before their constituents at the next elections of the Local Legislative Councils and the Legislative Assembly. If the response is in the affirmative, it would then be possible for Government to reconsider the position.”

If that has been done, if the constituency has given a mandate to our friends over there that this should be brought before the House, I shall have no objection at all. Then what I say is a mistake has been committed. They have interfered with our religion and they have not done so with the care that the Government of India has been enjoining upon themselves that they would do. Now, why should they not change, why should they not rectify their mistake ? The Honourable the Home Member said that he does not believe that a custom which had been in existence for so many years could be wiped out by a mere stroke of the pen. He does not believe that a mere penal provision would do to change a long standing custom. His colleague, the Honourable the Leader of the House, has stated in no un mistakeable terms that he does not believe that any reform should be forced down the throat of a people, that in India especially when the community believes that the reform is against their religious conviction ; and he has also stated further—and this is rather interesting—“ I also hold that in matters

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affecting the organised and established social life of a community or the personal law of any distinctive community, legislation by composite legislatures is absolutely undesirable.....”

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : I am sorry to have to interrupt my Honourable friend ; but during the last fifteen minutes he has been trying to show that this Act should never have been passed—not that it should be amended.

Raja Bahadur G. Krishnamachariar : My friend, Dr. Gour, is always particularly anxious to push forward his own Bills.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Is that a point of order or a statement ?

Sir Hari Singh Gour : I have put a point of order and I want a ruling from the Chair whether my Honourable friend is in order in attacking the whole Act which he had done on the last occasion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : A point of order has been raised. The Chair has followed the Honourable Member's speech with great attention. So long as he was replying to the position which the Honourable the Home Member took up in regard to his Bill, he was perfectly in order to point out the inconsistency between the attitude of Government in the past and that in the present. The Chair can not stop him doing that. I trust the Honourable Member will restrict his remarks by way of reply to the issue before the House.

Raja Bahadur G. Krishnamachariar : I apologise to you if I have transgressed my point. I was perhaps carried away by my enthusiasm for the subject.

Now, the next point that my Honourable friend, the Home Member, addressed this House was, what has happened since the passing of the Act to justify us to reconsider the matter. The answer to that is perfectly plain. Shortly after the passing of this Act, my friend, Mr. Acharya, who at that time was leading the forlorn hope and which, it is my misfortune to-day to lead,—put a question in February 1930, and this was the reply :

“ Government are aware that there is considerable feeling regarding the provisions of this Act. They trust, however, that the difficulties at present felt may be solved.....There are several Bills which the Government propose to circulate for opinion.....”

They have circulated the Bill for opinion, and the next proof is that a representation from the head of the Ahmadiya community who took the trouble to address.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member tell the House what has that to do with the amending Bill ? The Honourable Member will have to explain

what relevancy his observations have on the issue before the House.

Raja Bahadur G. Krishnamachariar : If the Honourable the Home Member was in order when he put the question to me,—and I take it it was put to me, namely, what are the changes that have happened since the passing of the Act to justify the Government to change their view now, and if, Sir, I am allowed to have my say, I would respectfully submit that I am entitled to give an answer to that question, and I was going to point out the various changes that have taken place and that have come to the notice of the Government since the passing of the Act, and in order to induce them to change their attitude even if they were perfectly justified at the time the Act was passed, in order to do what they did.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member would be perfectly in order if he restricted his remarks to that aspect of the question.

Raja Bahadur G. Krishnamachariar : That is what I was attempting to do. There is a good deal of feeling in the country in consequence of the passing of this Act which the Government should reconsider in connection with this Bill, and I was referring to the commotion that was raised in the country in order to show the actual condition in the country in answer to the position taken up by the Honourable the Home Member that they were in close touch with the Local Government and that no such representation has ever reached them. These are facts which ought to be within his knowledge. Even if they are not within his knowledge, I would respectfully submit that in answer to that question of his I am entitled to bring this to his notice.

Lastly, and that is the most important thing, but not the least, the great commotion in the Frontier Provinces. We all know that the Congress was seriously criticised that this Sarda Act was used as a handle in order to rouse the feeling of the communities there. The Congress was accused over and over again by Government that a great commotion has been roused by them, and that, I say, is a fact, which should make the Government think seriously in order to determine whether the Act, which is capable of being represented in that manner, whether an Act which could be made the basis of creating a commotion in a large portion of the Indian Empire, could be kept in the Statute-book in this manner. That was my point.

As I said, Sir, every member of the Government of India individually is against the principle of the Bill. Now, what is the difficulty in changing it ? The Honourable the Home Member said with reference to the great caution with which the old Bill was considered that they had come to the conclusion that the evil exists. I have got a good many authorities, and I do not want to waste the time of the House by reading out long extracts from them, and these authorities show that not only does the evil not exist, but there is a strange misreading of the condition

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that was reported by the Age of Consent Committee. I would however point out respectfully that the Age of Consent Committee was never called upon to decide this matter, and I want the Honourable the Home Member to look up his references, and he will then agree with me that the Age of Consent Committee was never asked to decide the marriage age. They themselves say that they were not asked to do so. Now, there is only one quotation, and that I must respectfully ask your leave to read, and that is because it comes from an unexpected quarter. Mr. H. G. Wells,—I think we have all heard his name,—says this in his book which has recently come out :

“ Even where women are not constrained by custom to the premature acceptance of a sexual role, the emergence of sex seems to affect lives in the opening phase of adult life much more fundamentally than it affects the lives of men. It is hardly too much to say that in the alert and the curious-minded girl, possibly more eager for knowledge than a boy of her age, a new personality is born at adolescence. The change is greater and more revolutionary than it is with the ripening male. Its onset is really catastrophic. The new personality that emerges may be domestic, maternal, erotic, or religious or a mixture of any of these—the choice will be determined partly by type and partly by circumstances—but it will be typically an acutely self-conscious personality and given to dramatizing its performances. In the course of two or three years this new born personality seizes upon its role....”

The point is this. The evil that has been attacked, the evil that
 1 P.M. they say now should not be in existence, is that there should not be a consummation of marriage before 14, and admittedly girls attain their puberty at about 12. So, infantile or maternity mortality being too much about that age, they say that there ought to be later consummation. Well, Mr. Wells does not think so.

There is one other point in the Honourable the Home Member's argument, and that is, why not you wait till the new Councils come. I have got my own ideas, and I am afraid the new Councils are not going to come so very soon. Even if they come soon, they will consist probably of twice or thrice the number of the present Assembly and beyond that I do not expect anything from them. Where you lower the standard, where you allow a large number of people to come in, I am perfectly sure that the Assembly would be greatly crowded, but beyond that, it would be of absolutely no use in order to decide this question. But I am not concerned with that now. I am not a prophet. There is a saying which says, don't prophesy unless you know. Therefore, I do not mean to prophesy at all, but what I do say is this. Democracy or no democracy, we do not want any such half-baked democracy which would throw us into the tender mercies of Gours and Sardas who would deal with our Shastras in the way that they have been dealing in this House,—in the most disrespectful, dishonourable, and insulting way in which they have been referring to our sacred books....

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara : General) : The Honourable Member uses the word “dishonourable”. I have never said anything in my speech, I have never used any language which would go to support my Honourable friend's description “dishonourable”. I have always treated the Shastras with the greatest respect. I am a Hindu of Hindus, a better and truer Hindu than my Honourable friend

though I don't come here with a painted forehead. (Laughter and Cheers.) I am a Hindu, a Hindu of Hindus, and I repeat that I treat all Hindu Shastras with the greatest respect. There may be differences of opinion with regard to a particular book being a Shastra or not, but all recognised Shastras I always treat with respect, and I must ask my Honourable friend to withdraw that word "dishonourable".

Raja Bahadur G. Krishnamachariar : I apologise to my Honourable friend. If he does not treat the Shastras dishonourably, it is not my business to offend him. But I fear that my Honourable friend, Sir Hari Singh Gour, is not so very tender to our Shastras as my Honourable friend, Diwan Bahadur Sarda, is : unfortunately as both of them are interested in the matter, I have got to join them together. I say on this question of new constitution, we do not want any such democracy at all and we shall fight to death the bringing into existence of a democracy which is going to flout our religion, which is going to interfere with our religious matters, a foretaste of which we have got now. Such a democracy we do not want.

I do not want to take up much time of the House, but look at what Mr. Gandhi himself has stated. Gandhiji has stated that in the democracy that he knew in England, where democracy has been in existence for hundreds of years, it is only half a dozen men who appear before and lead the people and the rest simply go and give their votes. That is what is happening there. That sort of democracy I do not want. I make a present of it on behalf of the people whom I have the honour to represent to those who may want it. We do not want it and the Government of India may keep it to themselves. That is all that I have got to say with reference to what my Honourable friend, the Home Member, has said.

I have got only a few words to say with regard to what Mr. Jadhav has said. I have already dealt with his argument about direction in the Shastras. His strongest argument was that the customs have changed and that we have gone far away from the intentions of the Shastras. The point is that in every religion customs change. For instance, the peaceful religion of Jesus Christ led to the Inquisition, and have they abolished Christianity on that account? Certain atrocities have been committed by Muhammadans in the name of Muhammadan religion. Have they abolished Islam on that account? That is not the way to reform society. If you find that customs have changed and people really do want it, by all means change the customs, but till then don't touch them. There is one further point that he took up. He spoke about irrevocable betrothals. Apparently he did not know. I took that point from the Census Commissioner's report of 1921 upon which he relied a great deal on the former occasion. My position is this. We rely upon the Shastras, we have been acting upon the Shastras; the Shastras, according to us, have laid down a certain course of conduct. You have disavowed all intentions to interfere with our religion. I have pointed out how you have interfered with our religion. I have pointed out how you have gone against every canon of social legislation, and consequently I respectfully appeal to you so to amend the Act as to carry the greatest amount of popular support with you.

Sir, I thank you for the courtesy that you have shown in allowing me to speak on this subject. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill to amend the Child Marriage Restraint Act, 1929, be taken into consideration.”

The Assembly divided :

AYES—21.

Abdul Matin Chaudhury, Mr.
Badi-uz-Zaman, Maulvi.
Bhuput Sing, Mr.
Ghuznavi, Mr. A. H.
Ibrahim Ali Khan, Lieut. Nawab Muham-
mad.
Ishwarsingji, Nawab Naharsingji.
Jha, Pandit Ram Krishna.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Maswood Ahmad, Mr. M.

Misra, Mr. B. N.
Muazzam Sahib Bahadur, Mr. Muham-
mad.
Mujumdar, Sardar G. N.
Mukherjee, Rai Bahadur S. C.
Roy, Rai Bahadur Sukhraj.
Sen, Pandit Satyendra Nath.
Shafee Daoodi, Maulvi Muhammad.
Suhrawardy, Sir Abdulla-al-Mámûn.
Uppi Saheb Bahadur, Mr.
Wajihuddin, Khan Bahadur Haji.
Ziauddin Ahmad, Dr.

NOES—53.

Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab.
Allah Baksh Khan Tiwana, Khan Baha-
dur Malik.
Amir Husain, Khan Bahadur Saiyid.
Bajpai, Mr. G. S.
Banerji, Mr. Rajnarayan.
Chinoy, Mr. Rahimtoolla M.
Clow, Mr. A. G.
Dalal, Dr. B. D.
Dash, Mr. A. J.
Dudhoria, Mr. Nabakumar Sing.
Fazli-Ilahi, Khan Sahib Shaikh.
Gour, Sir Hari Singh.
Graham, Sir Lancelot.
Greenfield, Mr. H. C.
Gwynne, Mr. C. W.
Haig, The Honourable Mr. H. G.
Hezlett, Mr. J.
Hudson, Sir Leslie.
Jadhav, Mr. B. V.
Joshi, Mr. N. M.
Lalchand Navalrai, Mr.
Lal Chand, Honorary Captain Rao
Bahadur Chaudhri.
Mackenzie, Mr. R. T. H.
Macqueen, Mr. P.
Metcalfe, Mr. H. A. F.
Mitra, Mr. S. C.

Morgan, Mr. G.
Munshi, Mr. Jehangir K.
Naydu, Rao Bahadur B. V. Sri Hari
Rao.
Nichols, Mr. H. L.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Puri, Mr. B. R.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Raghubir Singh, Kunwar.
Rastogi, Mr. Badri Lal.
Rau, Mr. P. R.
Reddi, Mr. T. N. Ramakrishna.
Russell, Lieut.-Col. A. J. H.
Ryan, Mr. T.
Sahi, Mr. Ram Prashad Narayan.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Scott, Mr. J. Ramsay.
Shah Nawaz, Mian Muhammad.
Sher Muhammad Khan Gakhar, Captain.
Smith, Mr. R.
Sorley, Mr. H. T.
Tottenham, Mr. G. R. F.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair understands that the Honourable Member, Sir Hari Singh Gour, does not wish to move his next motion on the Order Paper.

Raja Bahadur G. Krishnamachariar : I am not moving my motion, No. 4.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The next item which will be taken up after Lunch will be Item No. 6 on the Order Paper.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I beg to move :

“ That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Raja Bahadur G. Krishnamachariar, Mr. T. N. Ramakrishna Reddi, Mr. B. Sitaramaraju, Khan Bahadur H. M. Wilayatullah, Kunwar Hajee Ismail Ali Khan, Lala Hari Raj Swarup, Rao Bahadur S. R. Pandit, Mr. B. R. Puri, Mr. Jagan Nath Aggarwal, Sir Lancelot Graham, Mr. R. T. H. Mackenzie, and the Mover, with instructions to report on or before the 31st December, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Honourable Members will see from the number of signatures appended to this Bill, numbering no less than fifty-four, what importance is attached to this Bill ; and when I shall briefly state to Honourable Members the urgent, nay the imperative necessity of a change in the law affecting income-tax, I do not think there will be one dissentient voice against my motion or the substance of it. Honourable Members will remember that the income-tax enactment, then called the “ License Tax Act ”, was first introduced into this country in 1886, and the reason given for this License Tax Act was that there was a deficit in the Budget consequent upon the Burmese War and the sudden fall in the price of silver. A very small increase in the current revenue was demanded by Sir Auckland Colvin who moved the introduction of the Bill. Honourable Members will further remember that from that date down to 1916, income-tax was a small impost, and consequently the skeleton procedure provided for its levy gave summary jurisdiction to the Collectors and the Deputy Commissioners, on a summary inquiry, to impose and levy it. In 1916, there was a proposal to suddenly increase the tax, and there was, Sir, an illuminating discussion of the Income-tax Amendment Bill ; and I find, Sir, from the proceedings of the late Imperial Legislative Council that you as a representative of the people took an honourable share in resisting this impost. Nevertheless, as you rightly then pointed out, that your voice was merely advisory, you had no decisive vote in the matter. The result was that in spite of the protest the income-tax was increased on an understanding that it was to be a war measure and a super-tax was further added on on the ground that the war necessitated that measure. In 1922, on the coming into force of the Reforms, the Income-tax Act was consolidated ; but it was consolidated

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on the old ground, namely, that the executive were to continue to be armed with plenary powers both as regards assessment and also the right of hearing appeals. But a small provision was added which gave the High Court jurisdiction to go into questions of law either upon the cases stated by the Income-tax Commissioner or upon the writ of *mandamus* issued by them. Such was the state of the law down to 1931. Honourable Members will find that during this period of nearly ten years under the reformed constitution, the Government of India have been acting by supplementary and amending Bills to the provisions of the Income-tax Act tightening the law so far as the assessee was concerned, but giving him no relief against improper, unjust or oppressive assessment. Nevertheless, down to 1931, the High Courts of India had held that if an assessment was unreasonably high, it was a question of law and that the High Court had jurisdiction to interfere. In 1931, five Judges of the Rangoon High Court reviewed the whole case law on the subject and came to the startling conclusion that if an assessment is made by the Income-tax officer upon no grounds whatever, however arbitrarily and without any evidence, it was not a question of law upon which the High Court could interfere, and that Court and the other High Courts have further gone to the length of holding that if the Income-tax officer demands of an assessee a document or thing which he declares he has not got and is therefore unable to produce, however just, however reasonable might be his excuse for not producing it, however inconsequential might be the document which the Income-tax officer's curiosity wants to see, still the Income-tax officer can say : You have not produced the document which I wanted you to produce, and I therefore proceed to assess you *ex parte*. Although he assesses *ex parte*, as I have pointed out, unreasonably and arbitrarily and in an oppressive manner, still the assessee has got no right of appeal and he has got no right of going to the High Court and to complain that he has been unjustly treated and the decision of the Income-tax officer is wrong in law. Honourable Members will ask me : Could such a startling view of the law exist in this country ? I shall read to you, Sir, the language of the five Judges of the Rangoon High Court as to what they conceive to be the law and I shall also draw your attention to the strong recommendation which they have made to the Government of India that that law should be altered. In Indian Law Reports 9, Rangoon, at pages 292 and 293 (the case begins at page 281) occur the following passages. The Chief Justice Page delivering judgment of the Court says :

“ In England the persons entrusted with the duty of making assessments to income-tax, generally speaking, are non-official laymen appointed as Commissioners in that behalf for divisions and areas in respect of which they have special knowledge of the local conditions. The decision of the Commissioners on questions of fact is conclusive if there is any evidence upon which it could be based ; but in respect of every assessment an appeal lies to the High Court by way of case stated if it is alleged that the determination of the Commissioners is ‘ erroneous in point of law ’ ; even in cases in which by reason of default on the part of the assessee an estimated assessment has been made. In India, as in England, the persons upon whom is cast the duty of making assessments to income-tax are laymen ; but, whereas in England such persons normally are non-officials, in India the income-tax authorities are, or consist of, Government officials and the only remedy open to an assessee who is aggrieved by an assessment made upon him is to seek redress, by way of appeal or review as the case may be, from one official of the Income-tax Department of Government to another. (*Mark these words.*) It cannot be doubted, I apprehend, that the English system, if feasible, is far more satisfactory, and would be regarded by the general public as a

more equitable method of assessment than that obtaining in this country. But whether it would be practicable or expedient in India or in Burma to substitute for officials a body of non-official laymen as the taxing authority is a matter of policy with which the Courts are not concerned, and in respect of which I am not in a position to express an opinion although the creation of a Board of Referees in 1930 is not without significance in this connection. There can be no doubt, however, that the fact that the Income-tax Department in India and Burma is 'a judge in its own cause' has at times and among certain sections of the general public caused uneasiness, and anxiety is felt lest the possession of such autocratic powers by officials of a Government Department may sometimes result in injustice or hardship being done to those upon whom assessments are made.'

Honourable Members will see that these are strong words spoken not by politicians but by Judges sitting in judgment in an income-tax case in which they expressed their helplessness to assist the assessee in case of arbitrary and oppressive assessment. The other High Courts of India, for example, the Lahore, Patna and Calcutta High Courts, have equally pointed out that the income-tax law, in so far as it is worded, is too rigorous for the assessee to obtain that even-handed justice to which he is entitled. The five Judges of the Rangoon High Court, at the bottom of that very page, have pointed out that the injustice is so great that many of the Judges have taken upon themselves to review and revise the assessments, holding that arbitrary assessments are matters of law. But the Judges say that that is not in accordance with the true view which they laid down in the case to which I have referred. Honourable Members will thus find that the income-tax law, as it is administered in this country, has become an impossibility so far as redress to the assessee is concerned, and that the arbitrary and autocratic power, to use the language of the Chief Justice of the Rangoon High Court, which the income-tax authorities possess, admits of no redress at the hands of any judicial tribunal.

Let me very briefly point out to Honourable Members that the section dealing with assessment is section 23 of the Income-tax Act and under that it is provided that if the income-tax officer demands a return and a return is made and after that the income-tax officer wants a further document to be produced before him and the assessee complains that he has no such document in existence, and therefore cannot produce it, he is nevertheless entitled to make an assessment to the best of his judgment. The language of section 23 (4) will bear a recital, it says—and I leave out the unnecessary words :

"If any person fails to make a return under sub-section (1) or sub-section (2) of section 22, as the case may be, or fails to comply with all the terms of notice issued under sub-section (4) of the same section or,"

—Honourable Members will please mark these words—

"or having made a return fails to comply with all the terms of the notice issued under sub-section (2) of this section, the income-tax officer shall make the assessment to the best of his judgment."

The High Courts in India have been for a very long time divided upon the meaning of the words, "having made a return" and the ultimate provision "that the assessment shall be made to the best of his judgment". It has been held by one set of Courts that where the assessee has produced all the accounts and the income-tax officer still demands a document which the assessee is either unable to produce or which has not the slightest bearing upon his income, that would not enable the income-tax officer to proceed *ex parte* and to assess him under the provisions of this clause.

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The other High Courts have held that the man cannot be said to have made a return unless he produces all the documents which the income-tax officer calls for and whether these documents are rightly withheld or not is not a question of law into which the income-tax officer, as the sole and final judge, can go. Now, Sir, that is the first point of grievance that the assessee has. The second point and a still more important point is that having once decided that the assessee has failed to produce the document called for as enjoined by clause 4, the income-tax officer has to make the assessment "to the best of his judgment". Now, what is the meaning of these words "to the best of his judgment"? The Lahore High Court, the Patna High Court and the Rangoon High Court in full bench cases, and the Calcutta High Court and all the other High Courts have, down to last year, held that the function which the income-tax officer performs is of a *quasi-judicial* character and the words "to the best of his judgment" mean that there must be some evidence upon which he can make an estimate, it does not matter whether that estimate is right or wrong, but there must be some evidence to support his assessment. That was the view taken down to last year, but in the case that I have cited the five Judges of the Rangoon High Court have over-ruled all their previous full bench cases and held that it is not for the High Court to decide or to enquire into whether there was any evidence upon which the income-tax officer has made the assessment. It may be arbitrary, it may be excessive, or it may be, as my Honourable friend, Raja Bahadur says, autocratic and oppressive, but nevertheless the High Court is powerless to interfere and it is with reference to this powerlessness of the judicial authority that that statement from which I cited was made by the five Judges that there must be a change of law.

But, Sir, apart from the high authority of the High Court, apart from the powerlessness which the High Courts have confessed, we, as legislators, cannot be party to the perpetuation of this wrong committed upon the income-tax paying public. (Hear, hear.) Questions after questions have been asked on the floor of this House, as to whether the assessee should not get redress in the matter of assessment by, at any rate, obtaining some relief from a judicial body or tribunal against executive act, and while the Finance Department and the Central Board of Revenue are day in and day out forging further weapons and producing them from their inexhaustible armoury for the purpose of stiffening the law, they have taken no notice of this long-felt public want to which expression has been given by one and all on this side of the House. The amendment of income-tax law may come to you in the matter of short bills intended to deal with short *ad hoc* questions upon which the income-tax authorities and the Central Board of Revenue and the Finance Department would obtain the sanction of this House, but in fairness and in justice, I should have expected that when they find this great justice-denying loophole in the law, they would take the trouble to come to this House with an amending Bill and ask this House to redress a wrong from which the people have been suffering for such a long time.

But what have they done? Even in the course of the present Session

3 P.M.

two Bills are held up before our eyes. The one that was on the agenda paper yesterday had the object of further tightening up the law; and if this Income-tax Officer, whose assessment is arbitrary, oppressive, unjust and inequitable, imposes

a penalty, they demand of this House to give them the power to publish to the wide world that this assessee has not only been assessed but penalised for having concealed his income. That is the purport or one of the purports of the Bill to which the Finance Member was going to ask your consent yesterday and it is again, I am sorry to say, down on the agenda for to-morrow.

Sir, we have often been told that these amending Bills are intended to bring the Indian law into line with English law, and let us therefore for one moment turn to the English law on the subject of income-tax. Honourable Members who have heard the passage which I read from the report of the Rangoon High Court case will have no difficulty in understanding that between the English law and the Indian law there is a great deal of contrast, but very little to compare. Under the English law the income-tax is levied by the representatives of the people and the income-tax officials are in the nature of supplicant or applicant for that income, the amount of which is determined by the Income-tax Commissioners. And against their decision there are at least three appeals, as I have pointed out in my notes on clauses. I do not propose to take this House through all the details of the English income-tax assessment laws, but in the Bill which I and my co-authors have sponsored we have two main objects in view. One is that over all assessments there must be some measure of popular control, and secondly, that against an assessment an appeal should lie to an authority unconnected with the assessment. These are the two cardinal principles upon which I ask for the concurrence of this House. And is there any one in this House who can deny that these are bare facts of elementary justice upon which there cannot be two opinions? Honourable Members will thus see that the Bill which I and my co-authors have sponsored is a Bill which gives to the assessee the elementary right of justice. We have not thought it necessary to give to the Indian assessee the same measure of protection which the English assessee enjoys in his own country. We have not given the assessee three appeals, we have given him only one. We have not provided for the assessment being made by commissioners or an appeal to be heard by special commissioners. We have provided a much simpler procedure, and if that procedure is open to objection we are quite prepared to consider any alternative change. But what we do insist upon is that there must be an immediate change in the processual law of income-tax assessment in this country. As it is, the hand of the clock has been put back by the recent decision to which I have adverted. Last year some protection was given to the assessee against unreasonable and arbitrary assessments in that he could either demand of the Income-tax Commissioner that his case should be stated to the High Court, and that failing, he could apply to the High Court for a *mandamus*. But the change in the interpretation of the law since the decision to which I have adverted has deprived the unfortunate assessee of even that meagre protection. I therefore submit that the least that Government can do is at any rate to restore the law by elucidating and clarifying the provisions of section 23 of the Income-tax Act by giving to the assessee some protection against arbitrary and oppressive assessment. That, I submit, is the least that Government should have done and can still do. Sir, I am quite aware of the number of objections that the Honourable the occupants of the Treasury Benches will trot out against my proposal. We shall be told that the procedure that we wish to recommend would entail a heavy cost upon the establishment. I beg to ask,

[Sir Hari Singh Gour.]

was that cost incurred between 1886 and 1931 when the case law was to the effect that against arbitrary and inequitable assessment the assessee had a right of appeal to the High Court on a writ of *mandamus* and that it was a question of law and not a question of fact? That at any rate did not entail any extraordinary expenditure beyond Rs. 100 which the unfortunate assessee had to pay against 15 shillings which the assessee has to pay in England. I drew the attention of the Finance Department to this disparity between English and Indian law and I was told in that stereotyped and meaningless phrase that my representation was receiving the most careful attention of the Finance Department, with the inevitable result to which these most careful considerations always lead, namely, that the Government of India saw no reason to alter their views. That is the penalty which the assessee in this country has to pay.

One word more, and I have done. When we introduced this Bill we sought the good offices of the Finance Department and we said "this is a matter calling for urgent redress and the Government should by executive action elicit public opinion by circulating our Bill". But the Government said "Oh, no : we are going to oppose your Bill and therefore we are not going even to collect opinions upon it". They further said that our Bill was ill-drafted. We are not expert draftsmen and we therefore solicited the combined good offices of the Law Department and the Finance Department ; and we said "Redraft our Bill ; put it into any shape you like before the Legislative Assembly ; but give us what we want. Safeguard these two conditions which are the main principle of the Bill". We were told that the Bill could not be re-drafted, but that it would be set right in the Select Committee. It is for that reason that I have tabled this motion for the reference of my Bill to the Select Committee. Let me add one more word.

One of my Honourable friends, I believe with the concurrence of Government, has tabled an amendment for the circulation of the Bill for the purpose of eliciting opinions thereon by the 2nd January, 1933. Neither I nor my colleagues wish to burke an inquiry into this momentous question as to the manner in which income-tax must be collected ; but what we did want is that if the Bill went to Select Committee and the drafting of the Bill was set right in that committee, I should have been the first to ask the Select Committee to republish the Bill so that the revised draft of the Bill may be before the public for the purpose of obtaining their opinions. But if the Government feel that they will be going too far in accepting my motion for reference to Select Committee, I for one would not hesitate to accept their offer and send my small Bill for the purpose of obtaining public opinions thereon. But I hope that in their covering letter the Government will have the fairness to state that I and my colleagues do not stand by every clause and by every word in the Bill, which requires redrafting, but that we do insist upon the safeguarding of two main principles, namely, that all assessments must be subject to some measure of popular control and that all assessments must be subject to appeal before a tribunal unconnected with the assessment. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

"That the Bill further to amend the Indian Income-tax Act, 1922, be referred to a Select Committee consisting of Mr. R. K. Shanmukham Chetty, Raja Bahadur G.

Krishnamachariar, Mr. T. N. Ramakrishna Reddi, Mr. B. Sitaramaraju, Khan Bahadur H. M. Wilayatullah, Kunwar Hajee Ismail Ali Khan, Lala Hari Raj Swarup, Rao Bahadur S. R. Pandit, Mr. B. R. Puri, Mr. Jagan Nath Aggarwal, Sir Lancelot Graham, Mr. R. T. H. Mackenzie, and the Mover, with instructions to report on or before the 31st December, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. R. T. H. Mackenzie (Nominated Non-Official) : Sir, I beg to move as an amendment :

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 2nd January, 1933."

Sir, I am no lawyer, as it is evident to the veriest novice in the House, like myself, that the Honourable the Mover is : I do not therefore propose to join issue with him in the various technical legal points that he has raised in the course of his speech. But in moving this amendment I do so mainly for the reason that the Honourable the Mover in introducing the Bill on the 18th February of this year said that he was aware that it was defective in drafting. This shows that he, and presumably his 53 supporters, were not satisfied with it. How much more, therefore, is it likely that the other Honourable Members will not be satisfied with it as it stands ?

The Honourable the Mover has stated in his speech just now that for that reason he will be the first person to make this point with the Select Committee if it is referred to one. My own opinion is that it would be better if the opinions of the general public were available in the Select Committee, should the Bill at some future date be referred to one.

I do not propose to go into the matter in any great detail here, as I feel, for the reason already stated, that there is not likely to be much, if any, opposition to this amendment. I would, however, just like to draw the attention of Honourable Members to a few points which seem to me to require the further consideration which they will receive if the Bill is circulated for public opinion.

First of all, as regards the actual drafting, I think that the clause which calls for special comment is section 2, sub-section (8), giving the composition of the proposed tribunal. There is no indication therein as to how the first member of the tribunal is to be appointed, whether by election or by nomination and, if so, by whom. Nothing is stated as to whether the tribunal is to be paid or whether it is to be permanent or only to last for a specified period. These are all points which I think it will be agreed are of the utmost importance and should be clearly laid down in the Bill.

Another point which occurs to me as being of considerable importance is whether communal considerations are to enter the appointments in question.

To revert to what I said just now as to whether the members of the tribunal are to be paid or not, I presume that the intention is that they should be, and paid well, as I cannot visualise for instance "a member of the legal profession of at least 10 years' standing" being prepared to serve on such a tribunal unless this were so. Moreover, I do not think any one could blame him, if he did refuse to do so. At the same time I think that the remuneration should be specified.

Now, to turn to the question of whether the procedure under the proposed Bill would in any way be preferable to the existing procedure under

[Mr. R. T. H. Mackenzie.]

the Act : I understand that, as matters stand at present, an Income-tax officer in this country decides about 1,200 assessments a year, of which a large number are done on tour after examining accounts. Appeals may then be made from the Income-tax officer's assessment to the Assistant Commissioner, and, if the assessee is still not satisfied, to the Commissioner. It is now proposed, I understand, to give the taxpayer a right of appeal on all questions of fact or law to the tribunal ; and from the tribunal to the High Court—also on questions of law or fact. It seems to me that the probable result of this would be either that no tax would be collected at all, or, if it were, the cost of doing so would almost certainly be more than it was worth. In any case I doubt very much whether a tribunal of the composition proposed is likely to be any more reliable than the Income-tax Commissioner.

As an alternative it has been suggested that a more suitable tribunal would be one composed on the lines of the Board of Referees mentioned in section 33A, sub-section (6), of the Act. I am of opinion, however, that appeals to such a Board would be few and far between owing to the natural dislike of assessees to disclosing their affairs to people outside the Income-tax Department who may in practice be their competitors in business.

There are other moot points which occur to me, such as the comparison between the tribunal now proposed and the General Commissioners in England, but I do not propose to go into these at the present moment, as I feel that it will be manifest to the House from the few points that I have mentioned that there must be many others in connection with this Bill, which require further consideration and expression of opinion. I therefore hope, Sir, that my amendment that the Bill be circulated for the expression of public opinion will receive the fullest support of all parties in the House.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, ever since I came to this House I have not been able to see eye to eye with my friend, Sir Hari Singh Gour, and so I congratulate myself that on this occasion, which is the first occasion, that I wholeheartedly support his motion. Sir, this is a Bill which was long overdue, and I speak as one who had come under the heavy heel of the Income-tax officer,—I have only just come out after five long years,—between section 23, clause (4) and section 22, clause (2) and all the rest of the clauses put together. After the latest amendment to the Income-tax Act, they have introduced a separate Department directly under the Government of India under which are appointed officers known as Income-tax officers, Assistant Commissioners and Commissioners of Income-tax, and on the top of them all the High Courts which have now pleaded their helplessness to give us redress. Now, the Income-tax officer issues a notice. He is obsessed so much with his own importance, because he is in charge of the whole district, that he can call upon any and everybody to appear before him. Now, if you do not appear before him,—the Act says you cannot compel an assessee to appear before him,—but out of sheer cussedness he would insist upon a man to appear before him by a certain time, and if this poor man fails to appear before the Income-tax officer, then early next morning he gets a notice under section 23, clause 2. In that notice, Sir, all sorts of things imaginable are mentioned, and if the House will pardon me for mentioning a personal matter, I should like to mention

it, because I think the House ought to be in possession of it and that is why I support this Bill very strongly. One quarter of a sheet, a whole page of typed matter I had to produce including my pass books, bank books, outside and inside India, account books relating to business done in 8 Indian States in British India, all my agricultural accounts and all my money-lending transactions, though I have none (Laughter)—because where is the money to come from? I had to produce all these things before this Income-tax officer, because he acted in a revengeful spirit. I produced what I had. I have no transactions outside India and I told him that I could not produce my pass books or account books relating to transactions outside India. “No”, said the Income-tax officer, “your income is Rs. 50,000, and I tax you with Rs. 4,000”. And this Rs. 4,000 to be paid in one week! I asked for time, and no time was given. I went to the Assistant Commissioner of Income-tax. He has no power under the Act and he says go to the Commissioner, and by the time the case is heard the time given expires, and the Income-tax officer imposes penalties which he may up to the amount taxed. In these circumstances what am I to do? I have already paid Rs. 12,000 by way of land revenue, and here the Income-tax officer comes behind me and asks for Rs. 4,000 *plus* penalty for every day that I have not produced the money. That is the way we go on for months and months together. We have to appear in person, not once, twice or thrice, but as many times as the Income-tax officer would want us to. He has one camp here today and tomorrow he has another at some other place. Fortunately I am away from my place, but my poor wakil goes from place to place along with this Income-tax officer. Eventually this great Income-tax officer comes to the conclusion that the tax assessed is perfectly correct and just. Now, I go to the Assistant Commissioner, this gentleman is in charge of three or four districts, and the House can easily imagine the agony to which the assessee is put in having to go from place to place, and after he pretends to listen to your arguments I say deliberately—he pretends to listen to your arguments, he delivers his judgment. And what is that judgment? It is already cut and dried. He gives his judgment in two minutes’ time. Sir, I have had some experience of judicial work, some experience in writing judgments, and I feel that if I had the versatility of these Assistant Commissioners of Income-tax to write up judgments directly they hear the arguments, I would probably have been more successful in the Judicial Department. But the House may take it that the gentleman is quite ready with his decisions. Now, what should I do? There is no appeal to the Commissioner of Income-tax. There is a section which says ‘power to review’. Review really means revision. They have not had even the learning to use the proper legal word for it—review means revision, and for revision one has to pay Rs. 100 as deposit and put forward one’s ground, and then only the Commissioner of Income-tax will hear your case, and if you have to go to the High Court, you will have to do it, but my friend Sir Hari Singh Gour has pointed out the difficulties involved in going to the High Court. Such a state of things is absolutely intolerable to put up with. Sir, Government says that they are doing everything very sympathetically, and they are very very much surprised that people placed in the position described by me do not co-operate with them in these matters. Now, Sir, it is all very well for gentlemen who draw eight and ten thousands of rupees from the public exchequer, who go about in saloons, enjoying all the amenities of social and political life, it is all very well for these gentle-

[Raja Bahadur G. Krishnamachariar.]

men to call upon me who is toiling and moiling in my field (Laughter) in the hope of getting something, to pay all this heavy tax. Now, when I am trying to get something out of my land, the merchant will not take my produce, and the tax-gatherer insists upon getting the dues from me, which I am not able to pay. So what does he do? He goes to the Deputy Collector to whom a copy of this assessment order has been sent. The Deputy Collector dins into the ear of the village munsiff to go and attach my motor car if I do not pay the tax. I take my motor car and offer it to him, but he is so much afraid of it that he will not touch it even with a pair of tongs. That, Sir, is the position with regard to this income-tax collection. How can we have the patience, the tolerance to submit to all these things, and how can the Government in all fairness ask us to co-operate with them? By all means take your money. There is nothing more left in the country. India has to be bled; the lancet has to be applied. These are not my words, Sir. These are the words of the Prime Minister of England. Of course, to a certain extent we have got to pay the revenue. Even according to our ancient shastras the tax that a king demands has got to be paid, and we are quite prepared to pay it. But why in the name of collecting the tax, which you say you are entitled to, set behind us a whole host of men unscrupulous, without common sense whatsoever and trying to make as much money as possible from the helpless public. It is to remedy these things that my friend has brought forward this Bill. Take as much money as you like. For instance, we have the Land Revenue Code. No collector, no Board of Revenue, no Government can take out from us half a pie more than what is fixed in those rules. But what we would like is when you are going to entrust the whole Government into popular hands, first try this matter and put it into the hands of popular representatives. My Honourable friend over there says that if that is done, no tax will be collected and the representatives will be very tender to the people. I have not yet come across any tax that the Government has imposed which they have not been able to collect. Only the other day there was a question of the financial relations between the Indian States and the Government of India. When the Nizam transferred certain districts the revenue was supposed to be Rs. 71 lakhs, and there is a note by the Madras Government, "This amount was never collected". That is how they do in the Indian States, but no such note will ever appear under any heading of tax that the British Government imposes. Every pie of it, even though they have to spend Rs. 8 in sending letters of reminder—every pie of that tax is collected and collected mercilessly. But in doing so, why not you do it in a just manner? Why not you do it in a manner that people will not feel the trouble, the annoyance, the autocracy and the injustice with which the taxes are collected? Therefore, I most respectfully and humbly submit that this House will accept the two principles underlying the Bill, the first being the taxing authority, and the next being the appellate authority. In the olden days when the Rowlatt Act was passed there was a slogan current among the people of the Punjab, *Na Vakil, Na Dalil, Na Appeal*. That description would apply exactly to the existing system of income-tax—*Na Vakil, Na Dalil, Na Appeal*. Take away that objection also and provide against it. That is my very humble submission. (Cheers.)

Mr. B. Das (Orissa Division : Non-Muhammadan) : As I happen to be one of the foster-fathers of this Bill, I think I must join in the debate

at this stage. I must congratulate my Honourable friend, Mr. Mackenzie, on his able maiden speech, but I wish he had consulted his colleagues on the European Group, and he would have found out the genesis of this Bill and what lies behind it. He would have found out from his friends of the European Group who are Members of this House for a long number of years—they would have told him that on various occasions Members of this House had brought to the notice of the Government that the method of assessment and the method of appeals that have been prescribed by the income-tax Act do not meet with the approval of the country. I wish that he had consulted his friends on the European Group and would have ascertained how on points of income-tax his interest and those of Indians are one and how my capitalist friends on my left wanted to oppose a particular Bill along with the European Group when Government wanted to tax foreign investments. My Honourable friend wants that the Bill should be circulated. I do not mind its being circulated, but if my Honourable friend would only dive into the archives of the Finance Department, he would find the various Chambers of Commerce had, at different times, represented to the Government that the appeal tribunal should not be the Income-tax Commissioner but the High Court. My Honourable friend, Sir Alan Parsons, may not agree to that now, but he will have to, later on.

My Honourable friend says that the communal question is raised in the Bill and he wants the Bill to be circulated for opinion. I think we all pay Government money. Money is money, whether it is gold or silver. It is not Muslim money or European money or Hindu money. So I do not understand why my Honourable friend should raise the communal bogey. Probably he is thinking of going to the Round Table Conference and getting a seat there, and he is thinking of his old friend, Mr. Benthall, who raised the communal bogey in the Round Table Conference and read out a lesson to us. I want the Government to be fair, to be honest and to find out whether the grievances of the people are just or not. If the grievances are just, Government must redress them, and the various acts of omission and commission of the Income-tax Commissioners and officers that have been narrated so very interestingly by my esteemed friend, the Raja Bahadur,—they have been narrated very often on the floor of this House. These grievances exist, and so, what is the use of circulating this Bill? In my ten years' experience of this Legislature, I have never found that the Government have consulted the public or the Chambers of Commerce, or even the Associated Chambers of Commerce which my Honourable friend represents here, as to what salary they should pay to these tribunals. My Honourable friend, as a business man, knows, when tribunals or arbitration boards are set up in business matters, what daily rates are paid to them. If my Honourable friend complains that lawyers should not be appointed on these tribunals, he may make a suggestion that business men should be appointed on such tribunals, but that is a small issue. That does not apply to the principle of the Bill. I hope that some other Member from the European Group will rise later and support the principle of the Bill. I take it, if the Bill is changed drastically in the Select Committee, then it can be circulated, but at this stage the Bill, as drafted, meets with the wishes of the great mass of the people, and also meets with the wishes of the mercantile community in India.

Mr. S. C. Sen (Bengal National Chamber of Commerce, Indian Commerce) : I support the Bill. I have some experience of income-tax mat-

[Mr. S. C. Sen.]

ters in Calcutta and I fully agree with Sir Hari Singh Gour that the way in which assessments are made is really harsh and puts people to great hardship. I would not express my feeling too strongly, but I may say that there are vagaries, there is zoolum and also autocratic harshness in the assessments everywhere. (*Some Honourable Members* : "Hear, hear.") It is time that something should be done in the way of reform.

There are two points which have been urged in this case. One is that something like assessors who are non-officials should assess income-tax if the income-tax officers do not do their duty properly according to the assessee or, in other words, assessment should be made by a non-official body. This principle has already been accepted by the Government of India in section 33-A of the Income-tax Act. Why should they not introduce a similar provision so far as the ordinary assessments are concerned? In section 33-A, they have adopted that appeals should be filed with referees, one of whom should be a judicial officer and the others are ordinary laymen or merchants. The same principle can be adopted in the case of every assessment. There is no harm. If necessary, a limit can be fixed as regards the amount. As regards section 23, I personally have experience of how clause 4 of the section is enforced in practice and how the Income-tax officer exercises his powers under that sub-section. In a particular case the Income-tax officer asked for some unimportant information which could not be given, because no books were kept from which such information could be given. The assessee was assessed at Rs. 25,000 as their income. The matter was subsequently referred to the Commissioner and he ordered another assessor to go into the matter. The result was that only Rs. 500 had to be paid instead of Rs. 25,000. The case lasted 6 or 8 months. I know the difficulties in getting these assessments set aside. Then as regards appeals to the High Court. We have some experience of that in Calcutta. The Commissioner in five or ten cases out of a hundred himself refers the matter for the opinion of the High Court. In other cases we have to move the High Court to compel the Commissioner to send a statement of the case. According to the Income-tax authorities no question of law arises in any case and we have to convince the High Court that there is really a substantial question of law which ought to be argued and discussed in the High Court. In these circumstances I fully support the Bill and I do not understand why there should be a reference to the country. The recent decision of the Privy Council that the question of bad debts should be decided not by the man who knows about the condition of his debtors, but by the income-tax officials, makes it still more important that there should be some sort of assessors or tribunal consisting of non-officials who are acquainted with business methods who will go into a matter of this nature. For these reasons I support the Bill before the House.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : I rise to support the Bill moved by Sir Hari Singh Gour. This Bill, to a great extent, touches the purse of the people and ultimately the money goes into the coffers of the Government, but the real sufferers are the people of the country. I would ask this House to remember that only the other day we have removed several abuses in the criminal law. In the same way, I would ask this House to remove the abuses of the Income-tax Act which have been narrated by other

speakers before me and which have also occurred in my own experience. Several firms, I have come to notice, have suffered, because of the jealousies amongst themselves. If there are two competing firms near about, one informs the Income-tax Commissioner that the other firm is paying less than what is paid by the informing firm, and the result is litigation, appeals and objections which go on for months and months and the matter has to be settled by the High Court as explained by Mr. Sen. This Act appears to the country, in general, as a very arbitrary Act, not supported by any tribunal of assessors. This is an Act of the executive which does not appeal to the feelings of the people. Sir Hari Singh Gour, in a very lucid speech, has explained and asked this House to consider the position, as to why the operation of the procedure under this Act should be different from that which obtains in England. He has quoted instances which, if compared with the Act in British India, would appear to every member to be absolutely arbitrary. If you compare the sections, you will find that in England, there is a tribunal which levies the income-tax, there is a tribunal which assesses the income-tax, there is a tribunal that hears the appeals. If that is the case in the mother country, I do not see any reason why the same case should not hold good in British India. I would appeal to my European friends here. They also suffer a great deal by the operation of this Act. I would also submit that the present Act, as it stands, works in a very harsh manner. People have to take books by cart loads now, but if there is a tribunal, it is very easy for a member of the tribunal to go to the firm and examine the accounts to his fullest satisfaction ; but this is very difficult in the case of one officer, namely, the Assistant Commissioner. Therefore, I submit, that this Bill should be referred to a Select Committee.

The Honourable Sir Alan Parsons (Finance Member) : In the course of eight years spent in this House, I do not think I have ever listened to a Bill being introduced in so cavalier a fashion as that adopted by my Honourable friend, the leader of the Nationalist Party. After an appeal which, I think, I might characterise as an appeal more to prejudice than to reason, which practically did not touch on any of the detailed provisions of his Bill, he announced that if the Bill went to Select Committee he did not stand by a single clause or a single word in it. He, in fact, as far as I could see, wishes to send this Bill to Select Committee with nothing behind it from this House except two rather vaguely expressed general principles, that there ought to be some sort of appeal against assessments to judicial authority, and that there ought to be some sort of association of the non-official public with the assessments to income-tax. I am afraid, I am unable myself to treat quite so airily a measure which 53 or 54 Members of this House originally sponsored, and I must go to some extent more into detail than my Honourable friend, the Mover, did.

I think, however, it will probably make for lucidity if I deal first with the question as to whether there is any necessity for this Bill at all,—whether, in fact, there is really the abuse to be remedied which my Honourable friend claims that there is. I know I am having a difficult task because, after all, none of us likes to have to pay income-tax either in this country or in any other country and we none of us like the inquiries which are made from us by officials to enable them to decide whether we have submitted fair returns. I think therefore I shall have to

[Sir Alan Parsons.]

speaking against a not unnatural prejudice in all quarters of the House,—but I would like to take up immediately the question whether there is really any abuse. The argument generally is more or less I think as follows. Assessments are made arbitrarily ; income-tax officers are judges in their own cause ; the Assistant Commissioners of Income-tax sitting in appeal are again judges in their own cause ; and the same with the Commissioners. Now is not that really a catchword, “ being a judge in one’s own cause ” ? Are we not really using a wrong analogy ? As I understand the phrase of a person “ being a judge in his own cause ”, it means a person, by implication probably with very little judicial or legal training, who stands to gain personally by his action and can enforce, as a judge might, his action. Now that is not the position of the ordinary income-tax official. He stands nothing to gain in any way from making an arbitrary, unfair assessment. I know it will be said, “ but he does stand to gain if his collections are large, because he will obtain promotion in his Department and be looked upon as a good officer ”. Actually, Sir, instructions have been issued to stop any such tendency ; and I think it is quite arguable that the tendency of Assistant Commissioners of Income-tax and Commissioners of Income-tax—and it is a common tendency I think of all appellate authorities—is to interfere perhaps a little too much. But I can show to the House that there is nothing done that is in any way unfair to the assessee. I will give the House some interesting figures of what actually happened with regard to appeals and reviews in the last two years. In 1929-30—I am leaving out, I may say, the salaried cases because these do not generally come under either appeal or review—the total number of assesseees was in round numbers 281,000. The number of appeals filed was 21,714—considerably less than 10 per cent. The number of appeals disposed of, including a certain number of arrears, was 21,498 and the successful appeals, appeals which the Assistant Commissioners of Income-tax accepted, were 9,899, or nearly 50 per cent. The review petitions to Commissioners were 3,980 filed, disposed of (with arrears) just over 4,000, and 1,765 were successful. And actually, the financial results of those operations, and of the few references to the High Court, were a refund under the orders of the higher officers of the Income-tax Department of no less a sum than Rs. 92 lakhs, whereas the additional collections made were only Rs. 89,694 ! Sir, do those figures then really show that there is any great abuse of these supposedly arbitrary powers ? Indeed, the following year the figures are in some ways even more striking, but it is hardly worth while my wearying the House with them. Again they show that in about 50 per cent. of cases the Assistant Commissioners accepted the appeals made to them, and the Commissioners accepted the applications made to them for review. I have for that year one further figure. There were 73 references made to the High Court, and only 19 of those references went against the Income-tax Department ! My first contention, therefore, Sir, is that there is nothing in the present position which justifies a radical amendment of the law ; that the assessment and collection of income-tax is, on the whole, very honestly and fairly done, with due regard to the susceptibilities and rights of the assesseees ; and that no case has so far been made out against our present system. In fact the Honourable the Mover made no attempt by

any sort of figures to make out a case for any drastic alteration of our present system.

What are the alterations that my Honourable friend seeks to make ? To begin with, he proposes that in making assessments the Income-tax officer should have with him three or more assessors. Incidentally, I should like to draw the attention of the House to the way in which this Bill has been drafted. It says nothing as to who is to appoint these assessors, who is to decide whether they should be more than three, or points of that description. Now how many of my business friends in this House would really like to have their accounts gone into—as they will have to be if this Bill becomes law—by three or more non-officials, some of whom may be either their rivals in business, or friends of their rivals ? A provision of that sort, I can assure you, Sir, will do away once and for all with all secrecy in the administration of the income-tax law ; and it is for that reason that it has on very many occasions been opposed.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : What happens in England, with regard to 'secrecy',—where the non-official element goes through the assessments ?

The Honourable Sir Alan Parsons : If the Honourable Member will bear with me, I shall be coming later on to the question of what the Commissioners do in England. In England, the making of the original assessment is a matter purely in the hands of the Income-tax Department. So much for secrecy. I cannot believe that the provision which my Honourable friend inserted in clause 3 of his Bill can be anything but extremely harassing to every assessee in the country. Next, Sir, I am unable to discover from my Honourable friend's speech whether these assessors are to be paid or not. We have at the present moment I think 294 Income-tax officers,—with all of whom apparently three or four more assessors are to be associated. Now are they to be unpaid ? If they are to be unpaid, I think they will be the most public-spirited men I have ever heard of because the number of assessments they will have to make is (excluding salaried persons) in the neighbourhood of 280,000, to whom about 280,000 will now have to be added owing to the reduction of the income-tax limit. We shall have to find gentlemen

4 P.M. who will receive no remuneration of any kind, not even their travelling expenses, to deal with something in the neighbourhood of 600,000 cases of assessment, and many of these cases take more than one day, one day for a single case. For frankly, Mr. President, if they were paid, the cost of any such measure would be so large that, even if it were desirable, it would make it impracticable.

I will now turn to his next proposal, the one which is said to have been based on an analogy of the English law. Actually, it is correct that it is the English law but it is entirely incorrect that it is the English practice. I propose, with your permission, Mr. President, to read an extract from the report of the Royal Commission on Income-tax in Great Britain of 1920. I must also explain that I have ascertained from the inland revenue authorities in Great Britain that the position with regard to this particular point is practically the same now as it was

[Sir Alan Parsons.]

in 1920. I am reading from the end of paragraph 341 and the following paragraphs of that report. It begins by saying :

“ If, therefore, the letter of the law were followed, and the duties laid upon the General Commissioners by the Legislature were in fact performed by them, they would be exceedingly busy men.

As a matter of fact the practical position in these matters differs widely from the theoretical, and differs necessarily, for an attempt by the General Commissioners to carry out the Income-tax Acts literally would result in a breakdown of the machinery. In an important or densely populated division the investigation of all appeals and all claims of exemption and abatement by the Commissioners themselves would necessitate their sitting almost continuously throughout the greater part of the year. Seeing that the General Commissioners are an unpaid body of men, frequently men with many other activities, it has naturally come to pass that many of the duties allotted to them are, with their sanction, performed by the Inspector of Taxes.

It is therefore natural that the bulk of the work involved in the adjustment of assessments and the grant of allowances and reliefs should have fallen gradually upon him. (*That is, the Inspector of Taxes.*) For example, only a very small proportion of the tax-payers who appeal against their assessments appear before the Commissioners, in whom alone the law has vested the power to hear and determine appeals. The great majority of appellants settle their cases with the Inspector, and the Commissioners afterwards give some kind of formal covering authority to the settlements. We were given figures showing that in 22 divisions the number of appeals actually heard by the Commissioners was only 1,263 though the total number of assessments adjusted was 67,796, the remaining 66,533 cases having been settled between the tax-payer and the Inspector of Taxes. We think that nothing is being gained by the maintenance of purely formal sanctions at different stages, which hamper speedy administration.”

I think, Mr. President, that my Honourable friend is unfortunate in choosing for inclusion in his Bill from the English law exactly that provision of the English law of which very little use has been made, and which, as a Royal Commission has pointed out, has tended to hamper the speedy administration of the law.

Finally, I come to my Honourable friend's proposals with regard to the appeal to the High Court. In this matter, the position out here is, as far as I have been able to ascertain, exactly the same as the position in England. A reference is permitted to the High Court on a point of law but not on the question of the amount of the assessment. My Honourable friend's Bill, as it stands, goes far beyond it. It suggests that appeals should go to the High Court instead to the Commissioner. The number of appeals comes, I think, to about 4,000 a year and the proposal in my Honourable friend's Bill will add enormously to the work of the High Courts and not only in that respect. For they will have not only to hear these appeals, but also because by reducing the fee from Rs. 100 to Rs. 15 as he proposes to do in his amendment to sub-section (2) of section 66, they will be saddled with a great increase in the number of references on points of law. Whether the High Courts themselves will approve so large an addition to their labours and whether it will not involve the entertainment of additional judges, I cannot say ; but until there is some further evidence that these appeals are not dealt with fairly by the Commissioners, I suggest to the House that there is no reason for so radical an alteration in our present practice.

Lastly, I should like to refer to two other points. Under my Honourable friend's proposal, the assesses and Commissioners will not be under the control of the Central Board of Revenue but will be a law unto themselves. There will be no uniformity in the administration of the income-tax and I am sure that all Honourable Members, whatever

their opinions, will feel that in a matter of this kind uniformity is most desirable. The second effect of his proposals, I have no doubt, would be that they would lead to delay in assessment and harassment to the assessee because they will not have the free access they now have to the Income-tax officer and the Assistant Commissioner. That delay will involve a great falling off in the revenue which we derive from income-tax, which will have to be made good from some other source.

For these reasons, Government are uncompromisingly opposed to this Bill. They consider that it would be harmful to the assessee, to the collection of revenue and to the administration of the law, expensive and unworkable. It is a Bill, which, in their opinion, cannot be mended and had better therefore be ended. On the other hand, they recognise that there is some feeling that it should be circulated for the expression of public opinion thereon ; and as acceptance of that motion will in no way commit Government to any views different from those which I have now expressed, Government do not propose to oppose that motion.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official) : Sir, I congratulate my Honourable friend, Sir Hari Singh Gour, for his loyalty and his services that he often renders for his own community to which he belongs with distinction. But, I am sorry to say, this Bill, which he wishes to introduce, if it ever becomes an Act, will be very dangerous for the whole of the Income-tax Department. It will shake the root of the whole Department and will bring disaster to the financial position of the Government of India.

No doubt the objects of the Bill are sweetly worded in a way. Everybody knows that the tendency of the people is to avoid taxation and, if the Bill becomes law, there will be several other ways and means devised to evade income-tax. If such a tribunal, as is asked for in the Bill, is appointed, the nominations to these tribunals will be on communal lines. All Honourable Members who have taken part in this debate have shown a good many defects in the income-tax law from their point of view. I say, there might be some defects which might be remedied in some way or other, but not in the manner suggested by the Honourable the Mover of the Bill so as to make sweeping changes in the law by the appointment of special tribunals especially when these changes will shake the whole root of the income-tax law and will give more chances to people to escape from income-tax and thus deprive Government of the legitimate share to which they are entitled. Therefore, I oppose the motion for referring the Bill to the Select Committee. Whenever an important Bill is introduced in this House or whenever a recommendation is made for referring a Bill to the Select Committee, Honourable Members have always pressed for its circulation so as to invite public opinion. If the Honourable the Mover still wishes to pursue this Bill, the best course will be to circulate the Bill for eliciting public opinion. Through this circulation, the dangers, that I see, will be seen by many other persons and they would suggest some sort of remedy for the removal of those defects and difficulties which many tax-payers have expressed now or as magnified by them. I sympathise in a way with these people and I wish they escape from those oppressions, if at all they exist in certain cases. But I always disagree that the tax-payers should magnify all their wants or difficulties under the present law."

[Major Nawab Ahmad Nawaz Khan.]

There is another danger, that is, if the taxes are reduced by some such clever means, the Government shall be in great need to meet the financial crisis. The Government would then resort to taxation of some other section of people. I know that it has been suggested in some quarters that the agriculturist should be taxed. Well, it is a self-evident fact that the agriculturists are very poor as compared with other tax-payers. If an agriculturist gets even Rs. 5, that is taxed. Why should not the same principle be applied to other tax-payers. I would say, any man whose annual income is.....

Mr. S. G. Jog (Berar Representative) : On a point of order, Sir. Are these observations relevant to the present Bill ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member goes much wider than the Bill justifies.

Major Nawab Ahmad Nawaz Khan : If the Honourable Member is pleased to hear me for one or two minutes, he will find out whether my remarks are relevant or not. I have no intention of being irrelevant. I am giving vent to real hardship on the part of agriculturists. If the Government are really just, they should tax people whose income is Rs. 100 and over.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member please explain how this is relevant to the motion before the House ?

Major Nawab Ahmad Nawaz Khan : There is really danger.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question of the incidence of income-tax is not before the House. The Honourable Member, by his amending Bill, wishes to improve the procedure in regard to the income-tax law.

Major Nawab Ahmad Nawaz Khan : I support the motion of my Honourable friend, Mr. Mackenzie, for circulation of this Bill.

***Mr. S. G. Jog** : Sir, I have very carefully listened to the observations made by the previous speakers. I really cannot congratulate my esteemed friend and leader, Sir Hari Singh Gour, on the introduction of this Bill which is of a very halting nature. My Honourable friend has been in practice for a very long time, he has been moving amongst people of all classes for a long time and he knows well the ways and the vagaries of the Income-tax Department since a very long time. Instead of making use of his legal knowledge and acumen in bringing forward a measure which will overhaul the whole system of income-tax law, he has come forward with this halting piece of legislation.....

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Has not the Honourable Member, Mr. Jog, signed this Bill himself ? I find his name appended to the Bill.

Mr. S. G. Jog : Not having taken the initiative of making changes throughout the law, for the time being, I felt myself satisfied even with the small measure which he is attempting to introduce.

Mr. Gaya Prasad Singh : So the Honourable Member now explains it in that way.

*Speech not revised by the Honourable Member.

Mr. S. G. Jog : After having succeeded in introducing this small measure, and getting it passed, probably we will all join in getting the whole Act overhauled. You will generally find, Sir, that in towns and villages this Income-tax Department is, next to the police department, getting more and more unpopular. Why ? On account of the ways of assessment. It is very difficult at times for the assessing officers to get some relief in these villages. When these Income-tax officers go to the villages, they are avoided by the village people and, instead of giving any help to them, somehow or other, people think that it is a sort of invasion. In many cases there is no doubt that Income-tax officers, have not got sufficient time to go through the accounts or to collect sufficient material to arrive at a judicial finding as to how much amount should be assessed on the assessee. As the Income-tax officers have a lot of work to do, they dispose of their work in a very hurried way without doing any justice to the assessee. I am told that there are secret instructions, demi-official instructions, to the Income-tax officers as to what the probable amount of income-tax for a particular district or a particular province should be and, at times, attempts are made, somehow or other, by hook or by crook, to reach that figure. Sometimes the Income-tax officers think that if the usual assessment is not reached, probably they will be taken to task by their higher officials for not collecting or reaching that figure.

The Honourable Sir Alan Parsons : No such instructions have ever been issued.

Mr. S. G. Jog : The instructions may not be exactly in so many words, but they are asked as to why the assessment in a particular district has fallen.

Mr. N. M. Joshi (Nominated Non-Official) : It is quite natural.

Mr. S. G. Jog : If the subordinate officers are shrewd enough to read between the lines of these instructions, they know what their superior officers mean by them and they try to meet their wishes.

There is no doubt that in many cases, probably because the Income-tax officer has not got sufficient time or he has to deal with so many cases, proper assessment is not made ; and, if in each case, the assessee has to go and file an appeal, the Finance Member has probably no idea how costly it would be. Also in many cases there is very little chance of the appeal being successful and in addition to the assessment that is levied by the lower officials, the assessee thinks that he will be spending money needlessly for carrying the appeal through, and so he ultimately submits to the assessment. There is no doubt that the whole thing is done in a very slipshod way and now that this Income-tax Department has been working for so many years, it is absolutely necessary that this old system, which may not be absolutely rotten but, certainly, not up to the mark, should be done away with and we must introduce a system by which this assessment can be said to be judicially made. Many questions of importance arise as to whether a particular property is liable to assessment or to exemption, or whether a particular debt or amount is recoverable or not and whether it should or should not be included in the assessment, and so on. Many questions of legal technicality are always involved in this assessment question and, so far as the knowledge of these Income-tax officers goes, they are wanting in that technical knowledge so as to be able to decide these questions. **They**

[Mr. S. G. Jog.]

might be dealing according to their own lights with some questions of fact, but they are not able to decide these technical questions ; and what I submit is that there must be an agency or some procedure by which this assessment can be put to a judicial test. The present agency is not and cannot be sufficiently qualified to do this sort of work. In the beginning perhaps it might have been all right. It was a new department and, for some time, probably the department did not like to add more expenses and during the first period they did all right. But now, as things are changing, I think the whole procedure must give way to a more civilised, more systematic and more methodical procedure which will appeal to every assessee and there will not be any reason to complain against these assessments or against the wrong methods or harassments or whatever it might be.

There is a question as to whether this Bill should be sent for circulation or whether it should go to Select Committee. I think even if the Bill be circulated for opinion, there will be an overwhelming opinion in its favour and this House will have sufficient material to see how the Income-tax Department is behaving so far as the assessment is concerned. But I personally think that the wrong or improper way of doing things,—I will not say abuses,—is so familiar that it is not necessary to send the Bill for circulation. Everybody knows that there is something wrong in the procedure of the Income-tax Department which must be set right, and I will support the motion that it be sent to Select Committee. I am really glad that the attention of the Finance Member has been drawn to the long list of signatures appended to the Bill. That is sufficient to show that there is a strong public opinion behind this measure and it is sufficient to satisfy the Finance Member that so many people require a change, a change which is absolutely necessary and must be made. I support the motion for reference to Select Committee.

Mr. B. R. Puri : Sir, I should have thought that there were some measures which hardly needed any speeches to support them. The measure which is now before us for our consideration is so manifestly fair, that I for one think that it requires no elaborate arguments to justify its adoption. My Honourable colleague, the Leader of the Opposition, has been criticised in certain quarters for failing to ask for the complete overhaul of the income-tax law, and I think there is some justification for that criticism. The Income-tax Act is so replete with defects that it would not be too early to ask for a complete revision of that law. But, Sir, there is such a thing as overdrugging a patient and, I think, my Honourable friend, Sir Hari Singh Gour, has acted very tactfully and discreetly in not asking too much, because, even the modest demand which is involved in this Bill has proved too big a pill for the Honourable the Finance Member to swallow.

Now, Sir, what is, after all, the nature of the Bill which is before us ? The Bill is a very fair measure and, as I have said, a perfectly modest measure. It really has for its object the inclusion of the non-official element for the purpose of determining the assessment of income-tax. Hitherto the assessment, according to our non-official experience, has been conducted in a very oppressive manner and, therefore, it is but a just demand that we should ask that non-officials should also be co-opted with the agency which is responsible for the assessment of income-tax. What are the objections

against it ? I have heard two-fold objections. One Honourable Member remarked that if we committed such a folly as to invite the co-operation of non-officials to take part in the matter of assessment of income-tax, all the trade secrets would be thrown to the winds and non-official people would henceforth be in possession of secret and confidential statistics and information which it would not be in the interest of the trade to disclose. Sir, in support of the procedure which is demanded in the present Bill, the Honourable the Mover has drawn the attention of the House to the practice which prevails in England ; and I took the liberty of interrupting the Finance Member,—for which I apologise,—and asking him whether he could throw some light on how things work out in England, whether secrets there are disclosed, to the prejudice of the trade and commerce, or whether people there are so unmindful of their commercial interests that they do not care whether their rivals or their competitors in trade come to know the inner working and the secrets of their profession. If a thing is good enough there, I do not see what possible objection and fair argument can be advanced in not introducing the same system which has worked well in another country. But, side by side with this argument, there has been advanced another argument against the inclusion of non-officials for this purpose, and, that is, that he would introduce a communal question into the matter. It pained me to hear that argument, for one thing, because when this sort of argument is advanced, I, in my own mind, am certain that no better argument is available to the opposite party. When there is nothing better available, resort is made to an argument of this nature. Let us examine it on its own merits. The argument is that if you engage the services of a non-official, he is bound to bring with him the communal feelings ; if he is a Hindu, he is bound to go against the Muhammadans ; if he is a Muhammadan, he is bound to go against the Hindu assesseees.

Mr. B. Das : And if he is a European ?

Mr. B. R. Puri : He will go against both or else against neither in which case he will be no good to the Department. Now, let us examine this argument. Why apply this communal consideration only to non-officials ? If there can be non-official communalists, cannot there be official communalists ? Have you not got such people in service already ?

Major Nawab Ahmad Nawaz Khan : Officials have more responsibility than the non-officials.

Mr. B. R. Puri : I wish they had and I wish that the non-officials also felt their responsibility better. As I said, if communalism can prejudice and blind the non-officials, cannot it equally prejudice and warp the intellect and intelligence of the officials ? Do you seriously maintain that a Hindu becomes a very superior man, a super-Hindu, and friendly to Muhammadans the moment he is clothed with some sort of authority ? Ask my Muhammadan friends if they have got that confidence in Hindu officials ; and ask the Hindu members if they have got such confidence in the Muhammadan officials—I am stating a perfectly candid truth before the House. If, therefore, the official communalists are permitted to carry on this work of assessment to the prejudice of the class to which they do not belong, by what fair argument can you urge that non-officials, by being included for the purpose of assessment, will bring into the arena a consideration which hitherto does not exist ? Therefore, there does not seem to me to be any substance in this argument at all.

[Mr. B. R. Puri.]

Let us get on to the next point. The next demand which the Bill makes is that the Income-tax Department should not sit in judgment over their own acts. After all, there cannot be any possible objection to the impartiality of a tribunal like the High Court. There does not seem to be any reason why the High Court should not be allowed to give its final and impartial judgment where complicated questions, either of fact or of law, are involved connected with the Income-tax Department. The only objection which I have heard from my Honourable friend, the Finance Member, is that, according to his statistics, there would be about 4,000 appeals or references which would be taken to the High Court and the valuable time of the Honourable Judges of the High Court will no doubt be wasted. The argument, no doubt, on the face of it, sounds plausible. But might I ask, who disposes of these appeals at the present moment? Is it not the Commissioner of Income-tax? How many Commissioners of Income-tax dispose of these appeals successfully and expeditiously? If there is only one Commissioner of Income-tax, as I understand it is, who is capable of disposing of all these 4,000 appeals, the High Court, with the personnel of nearly 15 or 16 Judges, or say 12 on an average, should be able to manage it easily.

The Honourable Sir Alan Parsons : May I explain that there is a Commissioner of Income-tax in each province....

Mr. B. R. Puri : And so there is a High Court in each province.

The Honourable Sir Alan Parsons : ... and that most of his time is occupied with these appeals?

Mr. B. R. Puri : Very well; if there is one Commissioner of Income-tax in each province, let us take one judge from each High Court in each province. How would the Government suffer? It will promote greater confidence amongst the people if the final authority to hear appeals in income-tax cases is not a member of that department, but a disinterested impartial Judge of a High Court.

Rao Bahadur B. V. Sri Hari Rao Naydu (Madras : Nominated Official) : You will have to employ one extra High Court Judge in each province.

Mr. B. R. Puri : The High Court Judge will not be extra, because then your Commissioner will be relieved of the duty he is now doing. The work will be transferred from one official to another; instead of the Commissioner disposing finally income-tax cases and appeals, it would be a High Court Judge and any day you will agree that it would be better arrangement.

Rao Bahadur B. V. Sri Hari Rao Naydu : What about the cost? A High Court Judge will cost 4,000 rupees a month, while a Commissioner probably gets much less.

Mr. B. R. Puri : The Commissioner is not doing the work gratis. How much salary he draws, I do not know; my Honourable friend may know more; but, I dare say, that he is not drawing less than Rs. 3,000 a month.

Rao Bahadur B. V. Sri Hari Rao Naydu : No.

The Honourable Sir Alan Parsons : I do not know the exact amount that is paid; but it is certainly less than Rs. 3,000.

Mr. B. R. Puri : When we actually come to that stage, I think we will be able to adjust the salary. If everything else goes through, we will not be held up by the consideration of salary. That leaves only one little point and that is this ; that the number of appeals at the present moment is quite large, that the number of appeals in which the Commissioners interfere shows a fair proportion. Therefore, so far as the disposal of appeals is concerned and so far as the sense of impartiality, the Commissioners and Assistant Commissioners are not actuated by any departmental ideas and feelings, because, in a very large number of cases, they actually interfere. This sort of statistics are very misleading. In any way they are not conclusive, because, after all, over and above these statistics, it is very difficult to say what would be the number of appeals if they were to be handled by an outside agency. There is no doubt a very strong feeling among the public, and it is a reasonable feeling also, that an appeal against a subordinate member of a department to the head of that very department has got very little prospect of success. Therefore, Sir, we have got to wait and see when better conditions are introduced, namely, when more independent agencies are employed for hearing and disposing of the appeals against the deeds or misdeeds of a particular department, it will then be for us to see how far your present statistics are sound or otherwise, and then alone we will be able to see what is the number of cases that really succeed in appeals.

Mr. P. G. Reddi (Guntur *cum* Nellore : Non-Muhammadan Rural) : I move, Sir, that the question be now put.

The motion was adopted.

Sir Hari Singh Gour : Sir, my friend, the Honourable the Finance Member, is evidently reading from his notes for which he was not responsible ; but if he had consulted Sir Alan Parsons I do not know whether he would not have agreed with me. His feeble and special pleading left this House cold. He, first of all, pointed out that he did not quite understand what is meant by a phrase "a Judge in his own cause". Well, to the Honourable the Finance Member I will say, it means that the Income-tax officer is the appellate court in the matter of assessment which he may fix himself. That is the meaning of the phrase 'judge in his own cause'. He is the assessor, he is the judge, and he sits in judgment over his own act.

Then my friend pointed out that though my description of the English law was theoretically right, in point of practice the Income-tax Department makes that assessment, and he quoted an antediluvian report of 1920 and said that that, he was informed, was also the present law. I hold in my hand.....

The Honourable Sir Alan Parsons : Present practice, Sir.

Sir Hari Singh Gour : I hold in my hand a recent book called the "Complete Practical Income-tax" by Mr. A. G. McBain, Chartered Accountant, an expert in income-tax law, and let me present these few sentences to the Honourable the Finance Member so that he might correct his notes for future guidance. This is what the present law is and has been for the last ten years.

The Honourable Sir Alan Parsons : May I explain, Sir, that I said nothing about the law, I said what the practice was.

Sir Hari Singh Gour : I think my friend did not hear me properly, I say what the present practice is. We are at issue as regards the present practice, and I hope the Honourable the Finance Member will inform the Royal Commissioners of 1920 that their Report was wide of the mark, because here is a book written by a man who is a practical income-tax expert. And this is what he says on the very first page :

“ All duties of income-tax are under the care and management of the Commissioners of Inland Revenue, Somerset House, London. The actual assessments, however, (with the few exceptions specifically provided for in the Act) are finally ‘ allowed,’ by two bodies, the General Commissioners and the Special Commissioners. The General Commissioners are usually seven in number, and fill vacancies themselves. In most cases they are prominent business men or land owners in the district, are unpaid, and must possess a certain professional qualification.”

Then he gives a description and says that the tax-payer can be represented by an Agent, and so on, and the rest of it I have given in my notes on clauses. Therefore, not only theoretically but practically to-day and for a long number of years the income-tax law in England has been administered by unpaid popular agencies, and an English Income-tax assessee would never have tolerated the spectacle of a statutory enactment of Parliament being treated as a dead letter. So much for the practice of English law.

Then my friend said you want to change the present law—it is an ideal law, a most satisfactory law. It is ideal to him, satisfactory to him and his department, but it is galling to the whole country. And let the Government once for all take notice of the fact that if there is one tax which has created deep discontent throughout the length and breadth of this country, it is the income-tax procedure....

Mr. N. M. Joshi : How many tax-payers are there ?

Sir Hari Singh Gour : My friend, Mr. Joshi, says—how many tax-payers are there, let them be bled. If injustice is done even to one man, I shall rise up in arms against it and see that justice is done even to that one solitary man. Numbers do not matter. What matters is injustice, and this House has again and again vindicated its right as the forum of public opinion regardless of the number of people to be benefited by it.

Then, Sir, we are told, why do you want to change the law ? If you want to have assessors, you will have difficulties in finding men, and a henchman of my friend ejaculated “ Oh, communal considerations would arise ”. Now, Sir, as regards the appointment of assessors, Honourable Members of this House know that there were assessors even under the Indian Act, but these have been done away with only recently. There was no complaint that the assessors attached to all Income-tax Departments did not serve a useful purpose. As regards the communal feeling, does my friend not remember that now, since 1923, a very large number of murder cases are now tried with the help of a jury, and the jury system throughout India has been found to be very satisfactory ? And, if there is no communal feeling when the man is being tried for his life, how can you expect that there would be any communal feeling when these gentlemen advise the Income-tax Officer as to what are the financial resources of a proposed assessee ? Sir, I treat this argument, coming as it does from a nominated Member, with that unmentioned silence which it deserves. I submit, my countrymen would rise above their communal

feeling. They have risen sitting upon the High Court Bench, sitting in the Jury Box, doing their public duty regardless of any public feeling or communal prejudices.

Then, Sir, we have been told—look at the number of appeals that have been admitted. Sir, I remember one of my friends said that I had a very long experience at the bar. Sir, I have. And do you know how the Income-tax Department prepares statistics? An appeal is admitted to the extent of Rs. 5, and that becomes an appeal admitted. Then my Honourable friend quietly goes into the facts and says how far the assessee has been relieved by the Income-tax Department, but he fails to mention to what extent he is being oppressed. The whole method of assessment is vicious. You have the Income-tax Officer. The appeal goes to the Assistant Commissioner, who is an officer of the same Department. Then it goes to the Income-tax Commissioner who is responsible for the collection of income-tax in the whole province. Can you expect a departmental head, who has got attachments to his own department, and whose pay, promotion and prospects are in the hands of the department—can you expect him to do justice to the unfortunate assessee? If you find that this year he has collected one crore of rupees, and in the next year the income has gone down to Rs. 50 lakhs, does my Honourable friend, for a moment, suggest that the department would not ask for an explanation as to why there has been a sudden fall in the revenue? Surely, I wish to re-emphasise what I have been saying before, that whatever may be the doings of the Income-tax officers, we do not wish to place them in a position where their interests will come in to very direct conflict with their obvious duty. That is what we wish to avoid, and that, I submit, is the fundamental creed of having an impartial and judicial tribunal to sit in judgment over all assessments. That is the established law of England under which, as I said in my opening speech, every assessee is entitled to appeal in spite of the several preliminary safeguards I have referred to. Those safeguards I have not provided in my Bill, but I submit that the procedure requires a radical change, and as my Honourable friends on the back benches have pointed out, my Bill is a very modest Bill. I recognise that it is a modest Bill, and I am surprised that it should have been opposed by the occupants of the Treasury Benches. That shows the extent to which the reactionary element is preponderating in the Government of India. They cannot possibly fail to realise the trend of public opinion. Have they not seen the reports to which I adverted? Have they not read that judges after judges have been condemning this procedure and calling for a change? When a Judge of the Calcutta High Court makes some remarks purely in the nature of *obiter dicta*, down came the Government with all their massive battery, a Bill is drafted and circulated by executive action, and in supersession of all other business it is put in train for enactment by this House. That is when it suits them, but when it does not suit them, they begin to ask questions, what Judge, why is the evidence like this, and how is it relevant—that is done when it does not suit them. That is not the way to govern a great Empire; that is the way to lose it. I warn you that if you, within the few months or years that lie before you, do not show a greater sense of fair play and justice to this country, your accumulated injustices, your accumulated and multiplied wrongs would create, as indeed, they are creating, a growing discontent in this

[Sir Hari Singh Gour.]

country the end of which I know not, but the end of which you may soon see and regret. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 2nd January, 1933.”

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : It is now five o'clock, and I think no new Bill can be taken up now. The House will stand adjourned till 11 o'clock to-morrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 21st September, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 21st September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

QUESTIONS AND ANSWERS.

GRANT OF FACILITIES TO RELATIVES OF POLITICAL PRISONERS TO INTERVIEW THEM IN THE ANDAMANS.

519.***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether arrangements have been made to supply facilities in the form of free passages to the Andamans or otherwise to the prisoners' relatives and friends for interviews ? Is it a fact that they are entitled to these facilities according to the Jail Code ?

(b) If not, are Government aware that in the absence of such facilities interviews of relations will be an impossibility ?

(c) Are Government aware that the Indian Jails Committee has condemned absence of interviews in such unequivocal terms as " That the removal of a prisoner far from his home and an almost complete severance, which this involves, of all ties with friends and relatives is demoralising and undesirable " ?

The Honourable Mr. H. G. Haig : (a) and (b). Interviews with prisoners of their relatives are permitted under the Jail rules, but it is not the practice to grant any travelling facilities to their relatives or friends and Government do not see any reason for a departure from the general practice in regard to the prisoners in the Andamans.

(c) The words quoted by the Honourable Member occur in paragraph 564 of the Report as one of the arguments that could be used in favour of the complete abandonment of the penal settlement. As perhaps the Honourable Member is aware, the Jail Committee did not recommend that policy, but the retention of the Andamans as a place of deportation for a small class of selected prisoners whose removal from India is considered by the Government concerned to be desirable in the public interest.

Mr. Lalchand Navalrai : Does the Honourable Member know that when the detenus were sent to Deoli, promise was given that special consideration will be given for affording facilities for their relatives to visit them.

The Honourable Mr. H. G. Haig : The question we are dealing with relates to the Andamans, not to Deoli.

SUPPLY OF CLOTHING TO POLITICAL PRISONERS IN THE ANDAMANS.

520. *Mr. S. C. Mitra : What arrangements have been made for the supply of extra clothing to the deportees to the Andamans as recommended by the Indian Jails Committee in view of the fact that there is a heavy rainfall for about nine months in the year ?

The Honourable Mr. H. G. Haig : Jail clothing is issued to prisoners on admission to the Cellular Jail in accordance with the prescribed scale. Inside the Jail, prisoners are not exposed to weather, as they work and take their meals in corridors when the weather is wet. Self-Supporters and *Talabdars* except in a few selected appointments clothe themselves at their own expense. Waterproof capes and umbrellas may be supplied under orders of the Chief Commissioner to *Talabdar* convicts who are exposed to the weather while at work.

MEDICAL EXAMINATION OF POLITICAL PRISONERS IN THE ANDAMANS.

521. *Mr. S. C. Mitra : Have Government arranged for periodical weighment and careful regular and frequent medical examination of the prisoners in the Andamans ? Are Government aware that the climate of the Andaman island has been found specially unsuitable for patients suffering from phthisis ? If so, do Government propose to issue instructions to the authorities in the Andamans for the immediate re-transportation to India of the cases of phthisis in its early stage or in cases of suspected phthisis as revealed by medical examination ?

The Honourable Mr. H. G. Haig : Under the rules contained in the Provincial Jail Manuals no convict may be deported to the Andamans who is suffering from *phthisis pulmonalis*. In the settlement there is a competent medical staff, and the orders provide that, tubercular convicts must be sent back to their province as soon as the disease is diagnosed, after examination by a Medical Board as to their fitness to travel. I propose to send a copy of the Honourable Member's question and my reply to the Government of Bengal and the Chief Commissioner of the Andamans.

RE-ARREST OF CERTAIN BENGAL POLITICAL PRISONERS.

522. *Mr. S. C. Mitra : Are the Government of India aware that several prisoners in Bengal convicted of political offences were released before the expiry of their full term of sentence and after a lapse of years they have now been again sent to jail to undergo the rest of their sentence without being placed before a magistrate for re-trial ?

The Honourable Mr. H. G. Haig : There have been two such cases.

RE-ARREST OF CERTAIN BENGAL POLITICAL PRISONERS.

523. *Mr. S. C. Mitra : Are Government aware that Mr. Nikhil Ranjan Guha Roy and Mr. Narendra Mohan Ghosh Chaudhury were sentenced to transportation for life on February 16th, 1916, in the Shibpur Bomb Case and were transported to the Andamans but were released after more than ten years at the end of the year 1926 and now in 1932 they have been sent back to jail to complete the rest of their sentence without placing them before any court of law nor giving them any chance to explain

anything against them and that they have not been convicted of any offence in any court of law in the meantime ?

The Honourable Mr. H. G. Haig : I would invite the Honourable Member's attention to section 401 (3) of the Criminal Procedure Code, under which, if a sentence is remitted or suspended conditionally and if, in the opinion of the Local Government, the condition is not fulfilled, the person may be re-arrested and remanded to undergo the unexpired portion of the sentence. In both these cases orders were issued by the Local Government under this section cancelling the orders remitting the unexpired portions of the sentences and remanding these two persons to prison to undergo the unexpired portions of their sentences. The reasons are that in both cases, in the opinion of the Local Government, one of the conditions of release had not been fulfilled.

Mr. D. K. Lahiri Chaudhury : What is the significance of imprisonment ? I understand that one of the aspects of imprisonment for long years is that the conviction may have the chance of improving his conduct. When you arrest a person after such long detention in Jail, you ought to give him a fair opportunity of proving his conduct on which re-arrest is made.

The Honourable Mr. H. G. Haig : I am not sure how that question arises out of the matter we are dealing with, which is a case of prisoners who have been granted a conditional remission, and not fulfilling the condition have been remanded to prison.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say if these men had a chance of explaining themselves ?

The Honourable Mr. H. G. Haig : I have no doubt that the Government did not take action without very full consideration of the facts against them but there is nothing in the nature of a re-trial necessary.

Mr. Lalchand Navalrai : The question was whether these persons before they were remanded were given an opportunity to explain themselves.

The Honourable Mr. H. G. Haig : I am afraid I cannot give a definite reply on that point. The information in my possession does not cover that.

Mr. Lalchand Navalrai : Will the Honourable Member find out that information ?

The Honourable Mr. H. G. Haig : Yes, Sir.

Mr. S. C. Mitra : Will Government be pleased to inquire into the special circumstances of this case. These persons were released after 16 years' imprisonment and then they were left free for ten years and now they are again being sent back to jail without placing them before a magistrate. Will the Honourable Member kindly inquire what investigations Government made in the meantime to satisfy themselves that they have infringed some of the conditions ?

The Honourable Mr. H. G. Haig : I have information that the infringed condition was a very definite one. It was not a mere indefinite surmise.

Sardar Sant Singh : Does not Government regard it as scandalous to send them to jail after ten years ?

The Honourable Mr. H. G. Haig : If a man is sentenced to imprisonment and is released on conditions and he does not observe those conditions, I cannot see that there is anything scandalous in sending him back to prison.

Sardar Sant Singh : There is a Limitation Act for civil action. May I inquire whether any inquiry has been made, judicial or otherwise, as to whether the definite conditions upon which they were released have been broken.

The Honourable Mr. H. G. Haig : I can inform the Honourable Member that it was on account of a breach of a definite condition that these two persons were sent back to complete their sentence. This is the condition "He shall take no part directly or indirectly in anything that is an offence under the Arms Act or the Explosive Substances Act".

Mr. S. C. Mitra : Cannot the Honourable Member comprehend that there may be suspicious circumstances which the persons suspected may alone be in a position to satisfy the Government, if they were given a chance to explain their conduct ?

The Honourable Mr. H. G. Haig : The law puts the discretion in the hands of the Local Government. It provides that if in the opinion of the Local Government the condition is not fulfilled then that action may follow.

Mr. S. C. Mitra : I fully agree, but cannot the Honourable Member comprehend that these convicted persons may explain the apparent suspicious circumstances.

The Honourable Mr. H. G. Haig : I have already said that I will find out what particular inquiry was made.

Mr. Lalchand Navalrai : May I know whether the condition was broken by his using arms ?

The Honourable Mr. H. G. Haig : I am afraid we cannot try the case here on the floor of this House.

Mr. Lalchand Navalrai : I want to know the fact—if that was a condition ?

The Honourable Mr. H. G. Haig : The numerous questions of the Honourable Member directed at me almost amount to a trial of the case on the floor of this House. (Laughter.)

Mr. Lalchand Navalrai : Is the Honourable Member not in possession of this fact ?

Mr. K. C. Neogy : Will there be a trial of the case *anywhere* ?

Mr. S. C. Sen : Is it not a fact that the conditions mentioned do not state that the persons should be found guilty 'in the opinion of the Local Government' ? That is not stated in the conditions. It is an absolute condition whether they will be guilty of having arms, or anything of that sort.

The Honourable Mr. H. G. Haig : I would refer the Honourable Member to the terms of section 401 of the Criminal Procedure Code, which contain the words "if in the opinion of the Local Government any of the conditions are not fulfilled".

Mr. B. Das : Will the Honourable Member apply such conditions to the parallel case of my Honourable friend, Mr. S. C. Mitra, a late detenu of the Mandalay Jail, and, in view of his putting so many cases on detenus for our consideration showing his leaning towards these prisoners, despatch him again to Mandalay ? (Laughter.)

The Honourable Mr. H. G. Haig : I think the Honourable Member was not convicted of any offence.

Mr. S. C. Mitra : Do not the ends of justice demand that such men should be prosecuted and convicted of having helped in smuggling, before they are condemned in Jail for life ?

The Honourable Mr. H. G. Haig : No, Sir. If special concessions have been made to a prisoner and it is found that he has abused them, I see no reason why this procedure should not be followed.

FAMILY ALLOWANCES OF STATE PRISONERS.

524. ***Mr. S. C. Mitra :** Will Government please state the amount of family allowance granted to each of the State prisoners under Regulation III of 1818 ?

The Honourable Mr. H. G. Haig : I would refer the Honourable Member to the statement I laid on the table in connection with Sardar Sant Singh's question No. 163.

NON-GRANT OF A FAMILY ALLOWANCE TO STATE PRISONER, RASICK LAL DAS.

525. ***Mr. S. C. Mitra :** (a) Is it a fact that Government have not yet granted any family allowance for Mr. Rasick Lal Das who is a State prisoner confined probably in the Peshawar jail ?

(b) Are Government aware that he has left two old lady relatives, his widowed mother and aunt, aged over 70 years who were fully dependent on him ?

(c) Are Government aware that his old widowed mother is suffering from asthma and the aunt is down with rheumatism and both of them are now starving from want of any income ?

(d) How many petitions have Government received from his mother and aunt praying for the grant of a petty allowance only to cover their maintenance expense ?

(e) Do Government propose to enquire whether they have any other relatives to maintain them ? If not, why not ?

(f) Will Government be pleased to state the date of their last petition to Government and what was the reply of Government to their petition for allowance ?

(g) Do Government propose to re-consider the case of granting a small maintenance allowance for the two old widow dependents—his mother and aunt—of Rasick Lal Das ?

The Honourable Mr. H. G. Haig : The Government of India have received three petitions on the subject—the last dated the 5th August, 1932—from the mother of State Prisoner, Rasick Lal Das. The case has been carefully examined more than once, but the Government does not consider that the grant of a family allowance is justified since the State prisoner's relatives were not dependent on him for support prior to his arrest. They live in a joint family and the income derived from their landed property is reported to be sufficient for their support.

Mr. S. C. Mitra : Is not the Honourable Member aware that after the arrest of the only male member in the family, there is no one even to cultivate those lands ?

The Honourable Mr. H. G. Haig : Sir, there appears to be a conflict of opinion on the point, but our inquiry shows that that is not so.

Mr. S. C. Mitra : As the result of the inquiry, is not the Government satisfied that these two old ladies—mother and aunt aged more than 70 years—have no other male relations and no source of income excepting that which could be derived from their lands ?

The Honourable Mr. H. G. Haig : No, Sir. The result of the inquiries we have made is that the two old ladies were not dependent on the prisoner for their support.

Mr. S. C. Mitra : Is it not a fact that although they have lands, they have only one male member, who is now a deportee ?

The Honourable Mr. H. G. Haig : Our inquiries show that nearly all the income was derived from landed property.

Mr. S. C. Mitra : Income from cultivation, or rent realized ?

The Honourable Mr. H. G. Haig : Income from landed property.

Mr. B. Das : Did the Honourable Member consult his colleague, the Honourable the Finance Member, on the point that owing to the economic depression the income from land is almost nothing and does not meet the cost of production of the crops ?

The Honourable Mr. H. G. Haig : That, Sir, I am afraid is a normal condition of life in these days ; but we all have to adjust our modes of life to our reduced incomes. (Laughter.)

PAYMENT OF THE PREMIA DUE ON THE LIFE INSURANCE POLICIES OF MR. SARAT CHANDRA BOSE, A STATE PRISONER.

526. ***Mr. S. C. Mitra :** (a) Did Government receive any representation from the wife of Mr. Sarat Chandra Bose, Bar-at-Law, a State Prisoner under Regulation III of 1818 for payment of the premiums of the policies of insurance taken out by Mr. Sarat Chandra Bose ? If so, what is the total number of such policies ?

(b) Are Government paying the premia on all the policies ? If not, will they be pleased to state as to the number of policies on which premia are being paid ?

(c) Are such payments paid for the continuance of these policies ? If not, for what purpose are they being paid or have been paid ?

(d) Have Government refused to pay the premia in respect of any of these policies ? If so, in respect of how many policies and on what grounds ?

(e) What is the total amount of the annual premia payable in respect of these policies and what is the payment of premium which had been asked for by Mrs. Bose ?

(f) What is the total amount proposed to be paid in the course of one year ?

(g) Are Government paying the premia on all the life policies of other State prisoners ? If so, what is the reason for making a distinction in the case of the policies of Mr. Sarat Chandra Bose ?

(h) Are Government aware that there is a great pecuniary loss involved in the matter of reviving surrendered or forfeited life insurance policies and in cases of elderly people no revival is allowed who deteriorate in health in the meantime ? If not, do they propose to enquire ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) Yes. The total number of policies is nineteen.

(b), (c) and (d). The payment of premia amounting to Rs. 667|13|0 half yearly on one policy has been sanctioned till it acquires a surrender value, when it will be open to the representatives of the State Prisoner to make arrangements for the continuance of the payment of premia against the surrender value. A refund of Rs. 1,678|7|0 has also been sanctioned, as the equivalent of the single premia paid by the State Prisoner, in respect of three other policies on which no benefits had accrued prior to his arrest. No premia are being paid by Government in respect of the remaining 15 policies.

(e) The total amount of premia payable was, I understand, approximately Rs. 14,400 per annum, which was the amount asked for by Mrs. Bose.

(f) I have given the information in the reply to parts (b), (c) and (d) above.

(g) and (h). I would refer the Honourable Member to the reply I have given to Mr. S. C. Sen's questions Nos. 226 to 229.

PAYMENT OF THE PREMIA DUE ON THE LIFE INSURANCE POLICIES OF MR. SARAT CHANDRA BOSE, A STATE PRISONER.

527. ***Mr. S. C. Mitra :** (a) Are Government aware that Mr. Sarat Chandra Bose has developed diabetes in jail ?

(b) Is it a fact that diabetic people are not permitted to renew their life insurance policies at ordinary rates ? If so, are Government aware that higher rates of premia will have to be paid from the estate of Mr. Sarat Chandra Bose if any fresh insurance is to be effected on his return from jail ?

(c) Are Government aware that if the surrendered, discontinued or paid up policies of Mr. Sarat Chandra Bose are to be revived at a later date, it will mean payment of increased rates of premia from the estate of Mr. Sarat Chandra Bose and, if so, will they be pleased to state

the reasons as to how such revival of lapsed or paid up policies " will not mean damage to the estate " as stated by Government in reply to a representation from Mrs. Bose ?

The Honourable Mr. H. G. Haig : (a) No, Sir. I would refer the Honourable Member to the reply given by me to part (a) of his question No. 199.

(b) The amount of premium no doubt depends, among other things, on the age and state of health of the persons seeking to be insured.

(c) Fifteen policies in respect of which Government is not paying premia have already acquired a surrender value. It is open to the representatives of the State Prisoner to make arrangements with the Insurance Companies concerned by which the payment of premia can be continued against the surrender value or by which in some cases the policies can be converted into paid-up policies. In regard to the remaining four policies, I would refer the Honourable Member to the reply I have just given to parts (a), (c) and (d) of his question No. 526.

Mr. K. C. Neogy : In view of the fact that the payment of premia out of the surrender value acquired under any policy can be continued up to a particular time having regard to the amount that may be held at credit on that account, is the Honourable Member in a position to state that Mr. Bose will be released before that period of time is over so that he may keep up his insurance policies ?

The Honourable Mr. H. G. Haig : I understand premia can be paid on the basis of the surrender value for a very long period, and I hope we shall not have to consider the detention of Mr. Bose for periods of 10, 15 or 20 years. (Laughter.)

INTERVIEWS WITH DETENUS IN JAILS.

528.***Mr. S. C. Mitra :** (a) Will Government please state who is the sanctioning authority to permit interviews with detenues detained in jails or camps outside Bengal under the Bengal Criminal Law Amendment (Supplementary) Act ?

(b) How many persons dealt with under the above Act have been sent out of Bengal and what are the places where they have been detained ?

(c) How many of the detenues are now in Deoli Camp Jail in Ajmer and from what date ?

(d) Has any interview been allowed to any of the relatives, friends, etc., of any of these detenues ? If so, to how many of them and how many times ? And what are the names of such detenues who were granted interviews ?

(e) Are the detenues entitled to interviews with their relatives as of right or does it depend upon the sanctioning authority ? In case of option are the sanctioning authorities required to give reasons for refusal to grant interviews ?

The Honourable Mr. H. G. Haig : (a) and (e). Interviews are permissible to such persons as have satisfied the Superintendent that they

have received permission from the authorities appointed for that purpose by the Government of Bengal. The Government of Bengal have appointed the Deputy Inspector General, Intelligence Branch, to carry out these duties.

(b) and (c). 92. Deoli Camp Jail is the only place to which detenus have been removed outside Bengal. They arrived there in batches towards the end of May, and the beginning of June, 1932.

(d) I am afraid I cannot undertake to give details about interviews granted to detenus.

Mr. Lalchand Navalrai : Will the Honourable Member be now pleased to answer the question which I put some time ago, namely, whether at the time the detenus were being transferred over there there was a promise given that special consideration would be shown to them? May I know whether, with regard to these individuals also, special consideration is being shown or just the ordinary consideration that is shown to other prisoners?

The Honourable Mr. H. G. Haig : I have no recollection, Sir, of any assurance that they will be given special consideration. I thought the assurance was that, as far as possible, the conditions under which they were detained in Bengal would be reproduced.

Mr. K. C. Neogy : What is the place nearest to Deoli where relatives of the detenus can stay for the purpose of interviewing them?

The Honourable Mr. H. G. Haig : I do not know whether there are any facilities in Deoli itself. The nearest large place is Ajmer.

Mr. K. C. Neogy : How far is Ajmer from Deoli?

The Honourable Mr. H. G. Haig : About 70 miles, I fancy.

Mr. K. C. Neogy : And what is the means of transport between Ajmer and Deoli?

The Honourable Mr. H. G. Haig : I expect motor buses run; they do in most places.

Mr. B. Das : Is it a fact that my Honourable friend, Mr. S. C. Mitra, was not allowed to see his nephew in the Deoli prison?

The Honourable Mr. H. G. Haig : That may be so, Sir. I have a record from the Government of Bengal of refusal of one interview, and that is possibly the one.

Mr. K. C. Neogy : I think the Honourable Member said in reply to a previous question that the administrative authority with regard to the Deoli Detention Camp is the Government of India and that the Government of Bengal merely finds the money for it?

The Honourable Mr. H. G. Haig : No, Sir. I said that the administrative authority was the Chief Commissioner of Ajmer-Merwara.

Mr. K. C. Neogy : I thought the Chief Commissioner was under the Government of India?

The Honourable Mr. H. G. Haig : No doubt he is, but the direct administration is carried on by the Chief Commissioner, Ajmer-Merwara; but as I have explained in my answer to this question, the statutory

rules which have been made by the Chief Commissioner of Ajmer-Merwara lay down that permission for interviews has to be given by the authority appointed for that purpose by the Government of Bengal.

Mr. B. Das : Will the Honourable Member please inquire from the Chief Commissioner, Ajmer-Merwara, why was it that he refused Mr. S. C. Mitra to visit his nephew ? Have the Government of India any suspicions against Mr. S. C. Mitra, who is a Member of this House ?

The Honourable Mr. H. G. Haig : The action taken, I think, must have been taken on the authority of the Government of Bengal.

Mr. B. Das : Will the Honourable Member kindly inquire from the Government of Bengal what suspicions they have against Mr. S. C. Mitra. M.L.A. ?

Mr. Gaya Prasad Singh : Because he is an *ex-detenu* himself.

Mr. S. C. Mitra : Is it not a fact, Sir, that these interviews are allowed under a strict Police guard ? If that be so, will Government please explain whether they have any reasons for the rejection of an interview to a near relation ?

The Honourable Mr. H. G. Haig : It is difficult for the Government to state on the floor of the House the reasons in particular cases either for granting or for refusing to give interviews.

Mr. Lalchand Navalrai : Will the Honourable Member kindly say whether there was any fear by the Government of Bengal that Mr. S. C. Mitra will give some information to this House ?

The Honourable Mr. H. G. Haig : No, Sir ; I am confident that that was not the reason.

Mr. S. C. Mitra : Is the Honourable Member aware that these interviews are allowed in the presence of Police officials and Jail authorities and therefore there is no chance of anything surreptitious happening, or even for a man under suspicion to have an interview with this near relation ?

The Honourable Mr. H. G. Haig : I believe, Sir, they do take those precautions under those conditions.

Mr. B. Das : Does the Honourable Member subscribe to the view that Mr. Mitra is a suspected man ?

The Honourable Mr. H. G. Haig : No, Sir. I do not wish to discuss the estimation in which any Honourable Member of this House is held.

Dr. Ziauddin Ahmad : Is the Honourable Member aware that the Members of the Local Council are the Honorary Visitors to the various jails—at least this is the case in the United Provinces Council ? If so, can the M.L.A.'s be considered as Honorary Visitors for Deoli and other jails ?

The Honourable Mr. H. G. Haig : No, Sir ; I do not think that is the case.

Mr. D. K. Lahiri Chaudhury : Will Government now state if there is any suspicion against the visit of Mr. Mitra to the Deoli Jail ?

Will they consider the advisability in the future to give him facilities to visit that Jail ?

The Honourable Mr. H. G. Haig : I am quite prepared to send a copy of these questions and answers to the Government of Bengal.

NON-OFFICIAL VISITORS FOR THE DEOLI DETENTION CAMP.

529. ***Mr. S. C. Mitra :** Have any non-official visitors to Deoli camp been appointed ? If so, what are their names and since when have they been appointed ? How many visits such non-official visitors have paid to the camp ? Have they submitted any report ? If so, do Government propose to place a copy of that report on the table ? If not, why not ? If none has been appointed, will Government please state the reasons why ? Do Government propose to appoint such visitors ? If not, why not ?

The Honourable Mr. H. G. Haig : The Chief Commissioner has appointed a Visiting Committee by notification dated the 13th July, 1932. The non-official visitor on this Committee is Mr. D. H. Vakil. Under the rules notified by the Chief Commissioner on the 6th May, 1932, the Committee must visit Deoli Jail not less than once in every calendar month, and their reports are submitted to the Chief Commissioner.

Mr. K. C. Neogy : What is the position of this non-official Visitor, please ?

The Honourable Mr. H. G. Haig : His position is exactly the same as that of the official members of the Committee.

Mr. K. C. Neogy : What position does he occupy in life ?

The Honourable Mr. H. G. Haig : I am afraid, I must ask for notice of that question.

Dr. Ziauddin Ahmad : Can any Member of this House be included among the non-official Visitors ?

The Honourable Mr. H. G. Haig : If any Member of this House proposes to reside at Deoli, I have no doubt that his name will be considered.

Mr. K. C. Neogy : Does this gentleman actually reside at Deoli ?

The Honourable Mr. H. G. Haig : That I cannot say.

Mr. K. C. Neogy : Was the name of my Honourable friend Diwan Bahadur Harbilas Sarda ever considered in this connection ?

The Honourable Mr. H. G. Haig : That I cannot say. The Government of India were not consulted about the appointment of this Committee. It is a matter entirely within the discretion of the Chief Commissioner.

Mr. Gaya Prasad Singh : Is it not a fact that the gentleman who has been appointed a Visitor resides in Ajmer, like Diwan Bahadur Harbilas Sarda ?

The Honourable Mr. H. G. Haig : Very possibly, but I do not think that Dr. Ziauddin Ahmad comes under that category.

DEATHS OF DETENUS IN THE DEOLI DETENTION CAMP.

530.***Mr. S. C. Mitra** : Is it a fact that some deaths amongst the detenues detained in the Deoli Jail have taken place since they were sent to Deoli ? If so, what were the causes of such deaths ?

The Honourable Mr. H. G. Haig : There has been one death only which was the result of suicide.

INQUIRY INTO THE DEATH OF MR. MRINAL KANTI ROY CHAUDHURY IN THE DEOLI DETENTION CAMP.

531.***Mr. S. C. Mitra** : (a) Are Government aware that there is a strong rumour in Bengal that the alleged suicide of Mrinal Kanti Roy Chaudhury is not a case of suicide ? If not, do Government propose to inquire ? If not, why not ?

(b) Are Government aware that the public belief is that the death was due to torture by the underlings of the authorities in charge of the Deoli Camp ? If not, do they propose to institute an inquiry with the aid of non-official members of this House to allay the public feeling ? If not, why not ?

(c) Is it a fact that the death of Mrinal Kanti Roy Chaudhury was due to unknown causes, and that no interviews are being allowed ? If not, what are the causes for which all interviews have been stopped ?

(d) Will Government be pleased to state the reasons why the non-official inquiry asked for by a wire by Mr. K. C. Neogy, M.L.A., was not acceded to for allaying the public feeling in Bengal ?

The Honourable Mr. H. G. Haig : (a) and (b). The Government of India are not aware of any such rumour or belief. If any such mischievous rumour has been put abroad it is absolutely without foundation. An inquest was held and the Government of India consider that no further enquiry is necessary.

(c) The suggestion is entirely contrary to the facts. Moreover, it is not the case that all interviews have been stopped.

(d) I would refer the Honourable Member to the reply given by me to Mr. Nabakumar Sing Dudhoria's question No. 342 on the 16th September, 1932.

Mr. S. C. Mitra : Do not the Government realise that because the Press has been muzzled and interviews are objected to, that such ugly rumours get currency ?

The Honourable Mr. H. G. Haig : I do not think there is any justification for such a rumour to arise. I am informed by the Government of Bengal that there has been only one case in which an interview has been refused.

Mr. K. C. Neogy : Are the Government aware that the credit of Government stands so high with the public that all official communiqués in such cases are presumed to be incorrect ?

The Honourable Mr. H. G. Haig : No, Sir ; I am not aware of that.

STOPPAGE OF TRAFFIC ON THE KALKA-SIMLA CART ROAD.

532. ***Mr. S. C. Mitra** : (a) Are Government aware that traffic on the Simla-Kalka Cart Road is stopped for long hours when His Excellency the Viceroy or other high officials travel by motor on that road ?

(b) and (c).†

The Honourable Mr. H. G. Haig : I understand, Sir, that I am expected to answer only part (a) of the question, as the other parts (b) and (c) have been withdrawn, having been put down under a complete misapprehension of the facts.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Yes, the Honourable Member need reply only to part (a) of the question.

The Honourable Mr. H. G. Haig : Traffic on the Simla-Kalka cart road is not suspended when officials other than His Excellency the Viceroy travel on that road. The period for which it is suspended when His Excellency travels is always fixed so as to cause the least inconvenience to the public.

Mr. S. C. Mitra : Are Government aware that the Honourable Mr. Ramsay Scott, M.L.A., was held up for an hour and three quarters at Kandaghat only the other day when His Excellency's motor passed ?

The Honourable Mr. H. G. Haig : No, Sir.

Mr. S. C. Mitra : Are Government also aware that the Honourable Mr. Ghuznavi and half a dozen other Members of the Assembly on the 2nd September were interned in a waiting room for two hours before they were allowed to come out ?

The Honourable Mr. H. G. Haig : Mr. Ghuznavi has never mentioned this incident to me. I am very sorry that he should have been put to any inconvenience.

Mr. B. Das : Is the Honourable Member aware that the Police informed an M.L.A., who was walking on the Kalka platform that it was the police order that everybody must wait in the waiting room and there he was locked up ?

The Honourable Mr. H. G. Haig : No, Sir. This is the first time I have heard of these complaints. I very much regret that Honourable Members have been put to any inconvenience, but, I hope, they will also realise that we, as a Government, have a very special responsibility for protecting the person of His Excellency the Viceroy.

Mr. S. C. Mitra : Will Government take it that the Members of the House are quite willing to wait for any reasonable length of time ? Are Government willing to pass orders that people should not be detained unreasonably, say, for two or three hours ?

The Honourable Mr. H. G. Haig : Every effort, Sir, is made, as I have already mentioned, to cause the least possible inconvenience to the public.

Mr. K. C. Neogy : Have Government considered as to the manner in which the treatment meted out to Mr. Ghuznavi may react on the Minorities Pact ?

The Honourable Mr. H. G. Haig : I still await a communication from Mr. Ghuznavi making the complaint which other Honourable Members are so ready to make on his behalf.

†These parts of the question were withdrawn by the questioner.

Mr. K. C. Neogy : I am very glad to hear that the Honourable Member is prepared to differentiate the case of Mr. Ghuznavi from that of other Honourable Members ?

The Honourable Mr. H. G. Haig : I am merely pointing out that the case of Mr. Ghuznavi has not been brought to my notice except by the Honourable Member and one or two of his friends.

Mr. B. V. Jadhav : May I inform the Honourable Member that on the 2nd September the motor traffic was stopped from 5 to 9 in the morning. Does he consider four hours is the least possible delay ?

The Honourable Mr. H. G. Haig : I have already given the reply to all these questions, I think, Sir.

DIFFERENT GRADES OF MINISTERIAL OFFICERS IN CERTAIN OFFICES UNDER THE POSTAL DEPARTMENT, BENGAL.

533.***Mr. Muhammad Anwar-ul-Azim :** Will Government please state what are the various grades of clerks, and other ministerial officers, in the office of the Postmaster General, Bengal and Assam Circle, in the Calcutta General Post Office and its town sub-offices and the Dead Letter Office, Calcutta ?

The Honourable Sir Frank Noyce : The clerical grades in the three establishments referred to are :

Rs. 50—5—100 for lower division clerks.

Rs. 50—6—110—5—160 for ordinary time-scale clerks.

Rs. 160—10—250 for Head Clerks and officials of similar status.

Rs. 250—20—350 for Head Assistants and similar classes of officials.

Besides these, there is one Treasurer in the Calcutta General Post Office on Rs. 400—20—500 ; one Superintendent in the office of the Postmaster-General and the Manager of the Dead Letter Office, Calcutta, the two latter are on Rs. 350—20—450.

NUMBER OF MUSLIMS IN THE GENERAL POST OFFICE AND OTHER TOWN SUB-OFFICES IN CALCUTTA.

534.***Mr. Muhammad Anwar-ul-Azim :** Is it a fact that at the Calcutta General Post Office and in its town sub-offices, there are more than 1,756 clerks alone, drawing a pay of Rs. 50—350 ? What is the number of Mussalmans in that number ?

The Honourable Sir Frank Noyce : The actual number of clerks in the Calcutta General Post Office and its town sub-offices on December 31st, 1931, the latest date for which accurate figures are in the possession of Government, was 1,702. Of these, 135 were Muslims.

NUMBER OF MUSLIMS IN THE GENERAL POST OFFICE TREASURY, CALCUTTA.

535.***Mr. Muhammad Anwar-ul-Azim :** Is it a fact that in the General Post Office Treasury, Calcutta there are thirty posts carrying

salaries from Rs. 50—450 ? How many Muslims are there in that Cadre ?

The Honourable Sir Frank Noyce : No. There are actually thirty-two posts carrying salaries from Rs. 50—500. None of these is held by a Muslim.

NUMBER OF MUSLIMS IN THE DEAD LETTER OFFICE, CALCUTTA.

536. ***Mr. Muhammad Anwar-ul-Azim :** How many clerks are there in the Dead Letter Office, Calcutta, and how many of them are Muslims ?

The Honourable Sir Frank Noyce : On the 31st December, 1931, which is the latest date for which accurate figures are in the possession of Government, there were 86 clerks (including clerks in the selection grade) in the Calcutta Dead Letter Office. Of these, 21 were Muslims.

RECRUITMENT OF STAFF BY THE CIRCLE OFFICERS OF POST MASTERS GENERAL.

537. ***Mr. Muhammad Anwar-ul-Azim :** Will Government please state if the Circle Officer of the Post Masters General give effect to the wishes of Government in the matters of new recruits to the extent of one-third, in filling vacancies by Muslims ?

The Honourable Sir Frank Noyce : On the assumption that by " Circle Officer of the Post Masters General " the Honourable Member means the various local recruiting authorities in the Posts and Telegraphs Circles, Government have no reason to doubt that their orders for the redress of communal inequalities, to which the attention of those authorities has frequently been drawn, are being properly observed. The Government orders do not, however, stipulate for the reservation of all third vacancies for the Muslim community alone as the Honourable Member will see from the reply given to his own starred question No. 330 in this House on the 30th January, 1929.

RECRUITMENT OF MUSLIMS IN THE GENERAL POST OFFICE, CALCUTTA, OFFICE OF THE POST MASTER GENERAL, BENGAL AND ASSAM, AND THE DEAD LETTER OFFICE.

538. ***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state, with reference to the list of postal officials in the Calcutta General Post Office, Office of the Post Master General, Bengal and Assam (including Stock Depot), and the Dead Letter Office, Part II, corrected up to 1931 October, how many vacancies have occurred in the ranks of clerks and other subordinates from 1923, up to this date, and what vacancies have gone to Muslims ?

(b) Has the third vacancy policy been followed by the Circle Officers or not, in giving posts to Muslims ?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to take questions Nos. 538 and 541 together.

Government do not propose to call for the information as its collection would involve an expenditure of time and labour not commensurate with the value of the result. The Honourable Member's assumption that in recruiting for the public services Government reserve at least one-third of the vacancies for the benefit of the Muslim community alone is not correct and in this connection his attention is invited to the replies given to his own starred questions Nos. 352 and 330 in this House on the 7th March, 1928, and 30th January, 1929. respectively, which fully explain the position.

As regards parts (b) and (c) of question No. 541 the reply is in the negative.

Mr. Gaya Prasad Singh : With regard to part (b) of question No. 541, I should like to know if Muslim Members of the Legislative Assembly are to be consulted for appointments of their friends and relatives, why not Hindu and Sikh Members of the Legislative Assembly are to be consulted for the appointment of their friends and relatives ?

The Honourable Sir Frank Noyce : I think that question is not really being put to me.

NUMBER OF MUSLIMS RECRUITED IN PERMANENT POSTS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

539. ***Mr. Muhammad Anwar-ul-Azim :** (a) Do the Circle Officers, and Divisional Superintendents of Post Offices keep any waiting list of candidates ? If so, what is the number of Muslims in the Circle Offices, at Calcutta, Lahore, and Peshawar, in such lists and how many in each Division in Bengal and Assam ?

(b) Is it a fact that none of these Circle and Divisional Officers have ever consulted the Muslim authorities to get recruits ?

(c) What is the strength of the waiting lists in Bengal and Assam Circle, both at headquarters, and also at Divisional Offices and how many Muslims have been taken in to fill up permanent vacancies in the Bengal and Assam Circle ?

The Honourable Sir Frank Noyce : (a) to (c). It is the usual practice for recruiting officers of the Posts and Telegraphs Department to keep waiting lists of candidates for employment. As regards the rest of the question Government have no information nor do they propose to call for it as its collection would involve an expenditure of time and labour not commensurate with the value of the result, since Government have no reason to doubt that their orders for the redress of communal inequalities are being properly observed in the Offices and Divisions to which the Honourable Member refers.

NUMBER OF MUSLIM CIRCLE CLERKS IN THE OFFICE OF THE POST MASTER GENERAL, BENGAL AND ASSAM.

540. **Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state if it is a fact that up to 31st October, 1931, there were in the Office of the Post Master General, Bengal and Assam, 160 Circle clerks on a scale of Rs. 50—450 per mensem, of which only 15 were Mussalmans ? If so, why ?

(b) Will Government please state if it is a fact that on 10th March, 1923, a Resolution was accepted by Government, in the Assembly, regarding the preponderance of one class or community or province in the service of the Crown in India ? If so, has that been followed by the Department of Industries and Labour ?

The Honourable Sir Frank Noyce : (a) Government are not in possession of accurate figures of a date later than the 1st October, 1931. On that date there were 192 officials of the clerical class in the office in question—of these, 18 were Muslims.

Government are not in a position to state definitely why the recruitment of Muslims in this particular office has up-to-date been comparatively small. In view of the fact that strict orders are now in force for the protection of the interests of minority communities in recruitment for Government service, no useful purpose would be served by making detailed inquiries as to the method of recruitment followed prior to the introduction of such orders.

(b) The decision of Government on the Resolution in question will be found on page 4378 of the Legislative Assembly Debates on 9th July, 1923. The Department of Industries and Labour observes the orders issued by Government.

RECRUITMENT OF MUSLIMS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

†541. ***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state how many vacancies have been filled up since March, 1923 (*vide* list of Postal Officials in the Calcutta General Post Office, and the Office of the Post Master General), and how many have gone to Moslems in the Office of the Post Master General, Bengal and Assam Circle, Dead Letter Office, Calcutta General Post Office, and A. T. S. Offices, at Calcutta ? Was the Government order to the effect that at least one third vacancies should go to Muslims observed in these offices ? If not, why not ?

(b) Will Government please state if they make any enquiries from the Divisional Superintendents, recognised Mussalman bodies and Mussalman M.L.As. in Bengal, if the recruiting authorities at Calcutta do not find suitable Muslim candidates for any of these vacancies ?

(c) Will Government further state whether they have ever consulted the Assistant Director for Muhammadan Education at Calcutta, or the Universities of Calcutta and Dacca for finding suitable Muslim recruits for their offices at Calcutta and within the Circle ?

†For answer to this question, see answer to question No. 538.

RECRUITMENT OF MUSLIMS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

542. **Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many times questions, regarding the Muslim recruitment in the Bengal and Assam Postal Circle have been put in the Assembly since 1927 and what were the replies of Government in that behalf ?

The Honourable Sir Frank Noyce : The information asked for by the Honourable Member is as readily accessible to himself as it is to Government in the records of the proceedings of the Assembly which are to be found in the Library of the House and to which I would refer him.

NUMBER OF MUSLIM CLERKS IN THE BENGAL AND ASSAM POSTAL CIRCLE.

543. ***Mr. Muhammad Anwar-ul-Azim** : Is it a fact that officiating vacancies are not filled in by the Post Master General ? If so, who does the recruiting then ? Will Government please state what is the total number of clerks now on a pay of Rs. 50—250—350—450, in the Bengal and Assam Circle, and how many of them are Muslims ? What has been the guiding policy of Government in the matter of these recruitments ?

The Honourable Sir Frank Noyce : I regret that I am unable to reply to the first two parts of the question as the Honourable Member's meaning is not clear. As regards the third part, on the 31st December last, the latest date for which Government have accurate information, there were in all 6,459 officials of the clerical class in the Bengal and Assam Circle, of whom 879 were Muslims. Regarding the last part, the Honourable Member is referred to the reply given to his own starred question No. 352 in this House on the 7th March, 1928.

NUMBER OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE BENGAL AND ASSAM POSTAL CIRCLE.

544. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many Muslims have been posted as Divisional Superintendents in the Bengal and Assam Postal Circle ? Is it a fact that within a postal division, posts up to the value of Rs. 50 are filled up by the Superintendent ?

The Honourable Sir Frank Noyce : One Muslim Superintendent is at present in charge of a Division. A Divisional Superintendent is empowered to fill posts on time-scales of pay on the minimum pay of the scale prevailing in the Division, which varies between Rs. 35 and Rs. 70.

AMOUNT SPENT IN THE REPAIRS OF THE CALCUTTA GENERAL POST OFFICE.

545. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how much has been actually spent during the last five years in repairing the Calcutta General Post Office ?

Mr. T. Ryan : A statement is placed on the table. As I am not quite sure how much information the Honourable Member desires, the statement includes not only the cost of repairs to the General Post Office building itself but also to other buildings in the same compound, and also of electrical installations.

Cost of repairs (including repairs to electric installations) to the Post Office buildings at Calcutta General Post Office during the last five years.

—	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	Remarks.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	
General Post Office building ..	(a) Nil.	2,684-0-0	1,065-4-0	2,592-8-0	835-2-0	
Arcade Building ..	1,863-7-0	312-0-0	2,043-12-0	428-1-0	804-0-0	
Presidency Postmaster's quarters ..	202-8-0	127-4-0	455-0-0	144-1-0	112-14-0	
Deputy Presidency Postmaster's quarters	Nil.	57-8-0	231-12-0	76-8-0	95-0-0	
Assistant Presidency Postmaster's quarters	116-0-0	70-8-0	414-0-0	60-0-0	77-0-0	
	2,181-15-0	3,251-4-0	4,209-12-0	3,201-2-0	1,924-0-0	
<i>Repairs to electric installations.</i>						
General Post Office building ..	3,164-0-0	2,602-0-0	3,038-0-0	2,989-0-0	2,189-0-0	
Arcade Building ..	3,885-0-0	3,131-0-0	2,802-0-0	3,268-0-0	1,820-0-0	
Presidency Postmaster's quarters	38-0-0	38-0-0	36-0-0	18-0-0	14-0-0	
Deputy Presidency Postmaster's quarters	Nil.	11-0-0	11-0-0	11-0-0	9-0-0	
Assistant Presidency Postmaster's quarters	16-0-0	16-0-0	18-0-0	12-0-0	10-0-0	
	7,103-0-0	5,798-0-0	5,905-0-0	6,298-0-0	4,042-0-0	
					212-0-0	Cost of replacement of fans.
					4,254-0-0	

(a) Included in Rs. 1,863-7-0 shown against Arcade Building.

RENT PAID FOR THE BEADON STREET POST OFFICE IN CALCUTTA.

546. ***Mr. Muhammad Anwar-ul-Azim :** (a) How much do Government pay per month as rent of Beadon Street Post Office in Calcutta, and for how many years has this payment been made ?

(b) How much Government have paid in rents for this office for the last seven years ?

Mr. T. Ryan : (a) The rent is Rs. 1,500 a month ; it has been paid for about 8 years and 9 months.

(b) Rs. 1,26,000.

LOSS DUE TO THE SHIFTING OF GOALUNDU GHAT STATION ON THE EASTERN BENGAL RAILWAY.

547.***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state how much they have lost during the last five years by the shifting of the Goalundu Ghat on the Eastern Bengal Railway ?

(b) Is it a fact that there is no separate landing for the higher class passengers at Chandpur (Assam Bengal Railway) and Goalundu (Eastern Bengal Railway) from the ferry steamers ? If not, why not ?

Mr. P. R. Rau : (a) The expenditure incurred on shifting Goalundu Ghat on the Eastern Bengal Railway during the last 5 years averaged Rs. 55,000. The figures are as follows :

					Rs.
1927-28	..	..	..	..	29,530
1928-29	..	..	..	..	93,504
1929-30	..	..	..	..	61,882
1930-31	..	..	..	..	69,091
1931-32	..	..	..	..	22,912

(b) At Chandpur (Assam Bengal Railway) there are two gangways, one for upper class passengers and the other for intermediate and third class passengers. At Goalundu (Eastern Bengal Railway) under normal conditions when no erosion is taking place two gangways are provided, one for upper class passengers and the other for lower class passengers. In the flood season when the bank is cutting and the landing arrangements have to be moved back almost daily one gangway only can be provided.

Dr. Ziauddin Ahmad : Is there any chance of saving this money by diverting the route from Calcutta to Dacca ?

Mr. P. R. Rau : I should like to have notice of the question. I am not aware of local conditions.

INCONVENIENCE DUE TO CHANGE OF TIMINGS OF THE CHITTAGONG MAIL.

548.***Mr. Muhammad Anwar-ul-Azim :** (a) Is it a fact that Chittagong mail leaves Chandpur (Assam Bengal Railway) at 10-30 P.M., though the steamer reaches that station at 7 P.M. now ? If so, why ?

(b) Will Government further state whether there is any connecting train at Sealdah, to catch the Punjab mail in the evening for an East-Bengal passenger, coming from Chandpur ? Can a passenger, travelling by Chittagong mail, catch the Punjab mail in the evening, even by changing at Naihati now ? If not, why not ? Who is responsible for the change of the timings ?

Mr. P. R. Rau : (a) The time table of the Assam Bengal Railway in force from 1st May, 1932, shows that the steamer reaches Chandpur at 20 hours, and the train for Chittagong leaves at 22 hours, arriving at Chittagong at 5-31. The time of departure has apparently been designed in order that the train may not reach Chittagong at too early an hour.

(b) From the latest time tables of the two railways, I understand that the reply to the first part is in the negative and to the second part in the affirmative. As regards the last part of the question, changes in timings of trains are arranged by the various Railway Administrations who discuss important alterations with their respective Advisory Committees.

NAMING OF STATIONS ON THE DOHAZARI SECTION OF THE ASSAM BENGAL RAILWAY.

549.***Mr. Muhammad Anwar-ul-Azim :** (a) Will Government please state how many stations are there on the Dohazari section of the Assam Bengal Railway ?

(b) Is it a fact that all the stations on this line are named after the villages through which this Railway passes ? Is Janali Hat a station on that line ? Is Janali Hat the name of a village ? Is it a fact that all the villagers of that Union have asked the Railway authorities to change it to Mohora, the village through which the Railway passes, and that has been recommended by the District Magistrate of Chittagong ?

(c) Do Government propose to name the station after the village through which it passes, and will they please lay on the table all the correspondence in that connection ?

Mr. P. R. Rau : (a) Six stations, excluding Sholashahar Junction from which the Dohazari section takes off.

(b) The fixing of station names is settled by Railways in consultation with the local civil authorities. But I am prepared to accept the Honourable Member's statement that the stations have been named after the villages through which the railway passes.

Janali Hat is a station on the Dohazari section, and there is a village of that name.

A representation from the President, Mohora Union Board, to change the name of Janali Hat Station to Mohora was received by the Railway Board and forwarded to the Agent, Assam Bengal Railway, for disposal.

The District Magistrate, Chittagong, writing to the Traffic Manager, Assam Bengal Railway, in March, 1930, supported the suggestion that the station name should be Janali Hat. I am not aware if there has been any subsequent recommendation on this point from the District Magistrate.

(c) Government are not prepared to take any part in the fixing of station names. It is obviously a matter which can more suitably be taken up with the Agent by Members of the Railway's Advisory Committee, and I understand the Agent explained to them the reasons for the decision at a meeting held at Chittagong on the 4th August, 1932. Government do not consider that the correspondence is of such public interest as to justify its being laid on the table of the House.

MEMORANDUM *re* POSITION OF MINORITIES IN THE RAILWAY SERVICES IN INDIA.

550. *Mr. Muhammad Anwar-ul-Azim : (a) Will Government please state when the memorandum by the Railway Board to show the position of the minorities in the Railway services in India was issued ?

(b) Was any copy of that printed memorandum circulated to the members of this Assembly ?

(c) Is it a fact that it contained copies of instructions to various Railways in this country to follow, in the matter of new recruits ?

(d) Have the Eastern Bengal and Assam Bengal Railways followed any of those instructions ?

(e) Have these two Railway systems taken to the practice of advertising the new vacancies under them in the local papers ? If not, why not ?

Mr. P. R. Rau : (a) I presume my Honourable friend is referring to the Memorandum issued by the Railway Board on the representation of Muslims in the Railway services. This was issued in February, 1931.

(b) Yes.

(c) It described the policy of Government and the measures adopted by the Railway Board to give effect to it.

(d) Government have no reason to think that railway administrations are not following the policy of Government in this matter. As my Honourable friend doubtless recognises, orders giving effect to this policy are not binding in detail on Company-managed Administrations.

(e) I have called for this information and will lay a reply on the table in due course.

PERSONNEL OFFICER OF THE ASSAM BENGAL RAILWAY.

551. *Mr. Muhammad Anwar-ul-Azim : When was the Personnel Officer appointed by the Assam Bengal Railway and for what purpose ?

Mr. P. R. Rau : A temporary post of Personnel Officer was created for two years from 1st April, 1930, but it was not filled until March, 1931. The officer deals with all questions relating to staff welfare, including the staff Benefit Fund Employment Bureau and Staff Councils.

RETRENCHMENT IN THE ASSAM BENGAL RAILWAY.

552. *Mr. Muhammad Anwar-ul-Azim : How many (i) clerks and (ii) coolies and menials have been retrenched by the Assam Bengal Railway since 1930 ? How many of them were Muslims ? How many of the retrenched men have been taken back since and how many of these are Muslims ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

MUSLIM PREVENTIVE OFFICERS IN THE CUSTOM HOUSES AT CALCUTTA AND CHITTAGONG.

553. **Mr. Muhammad Anwar-ul-Azim :** Will Government please state how many Preventive Officers there are at the Calcutta Customs, and at Chittagong ? How many of them are Muslims ? If the number is below 33 per cent., why is that so ? What has been the promises of the Finance Member in this behalf since 1927 ?

The Honourable Sir Alan Parsons : 230 at Calcutta and 17 at Chittagong out of whom 26 at Calcutta and 3 at Chittagong are Muslims. The existing orders require that two-thirds of the vacancies should be filled from the best material available, and that the remaining third should be utilised for redressing communal inequalities. It is only since 1920 that Indian officers have been recruited at all and their proportion to the total strength of the service must therefore increase slowly. With regard to the concluding portion of this question the Honourable Member's attention is invited to the Honourable Sir George Schuster's speech in this House on the 12th March, 1931.

MUSLIM CLERKS AND PREVENTIVE OFFICERS IN THE CUSTOMS OFFICES AT CALCUTTA AND CHITTAGONG.

554. ***Mr. Muhammad Anwar-ul-Azim :** (a) What is the total number of clerks in the offices of the Collectors of Customs at Calcutta and Chittagong ? What is the number of the Mussalmans respectively ?

(b) How many clerks and Preventive Officers have been retrenched from these two offices, and how many of them are Muslims ?

(c) Is it a fact that several Preventive Officers have been recruited by the Collector of Customs at Chittagong this year ? How many of them are Muslims ?

(d) How many Muslim graduates were asked to interview the Assistant Collector ?

The Honourable Sir Alan Parsons : (a) 367 at Calcutta and 27 at Chittagong of whom 48 and 6, respectively are Muslims.

(b) A statement is placed on the table.

(c) One Preventive Officer has been recruited at Chittagong ; he is a Hindu.

(d) Of the six Muslim applicants interviewed 4 were graduates.

Statement referred to at (b).

	Number of clerks retrenched.	Number of Muslims.	Number of Pre- ventive officers retrenched.	Number of Muslims.
Calcutta ..	41	2	27	1
Chittagong ..	3	1	2	Nil

RAID ON THE HEAD TELEGRAPH OFFICE AT CHITTAGONG.

555. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state when the Head Telegraph Office at Chittagong was raided last ? What was the amount of loss to Government thereby ?

Mr. T. Ryan : The Head Telegraph Office at Chittagong was raided on the 18th April, 1930. The loss to Government was Rs. 4,057.

MUSLIM PERSONNEL OF THE HEAD TELEGRAPH OFFICE AT CHITTAGONG.

556. ***Mr. Muhammad Anwar-ul-Azim** : What is the total personnel of the Head Telegraph Office at Chittagong, excluding the peons and menials and how many are Muslims ?

Mr. T. Ryan : The total personnel of the Chittagong Telegraph office excluding peons and menials is 26, including one Muslim.

REPRESENTATION FROM THE PEOPLE OF CHITTAGONG HILL TRACTS *re* THEIR REPRESENTATION TO THE BENGAL LEGISLATIVE COUNCIL.

557. ***Mr. Muhammad Anwar-ul-Azim** : (a) Will Government please state whether they have received any representation from the people of the Chittagong Hill Tracts requesting to be joined with the district of Chittagong, in the matter of their representation to the Bengal Legislative Council ?

(b) Are the Chittagong Hill Tracts under the Superintendent of Post Offices, Chittagong Division ?

The Honourable Mr. H. G. Haig : (a) The reply is in the negative.

(b) The reply is in the affirmative as far as postal administration is concerned—but otherwise in the negative.

Mr. B. Das : As the Chittagong Hill Tracts are at present treated as backward tracts and have no representation in the Local Council or in this Legislature, and as the subject of backward tracts which was on the agenda of the Consultative Committee was not decided by them, how are the Government of India going to look after the representation of the backward tracts and how are their interests going to be safeguarded before the Government of India Act is passed ?

The Honourable Mr. H. G. Haig : The Government of India have been considering the question of the backward tracts and have addressed the Secretary of State on the subject. If this subject should come under review in the conference which is now to be held in London, all the better ; otherwise I am afraid the question will be left to the deliberations of the Government of India and His Majesty's Government.

Mr. B. Das : Will Government lay particular stress on this aspect of the question that the Simon Commission pointed out that there are nearly 207,900 square miles of backward tracts in the different provinces of India ?

The Honourable Mr. H. G. Haig : Government are well aware that the question is one of some importance.

MUSLIM UNPAID PROBATIONERS IN THE CHITTAGONG HEAD POST OFFICE.

558. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many unpaid probationers are there at the Chittagong Head Post Office, and how many of them are Muslims ?

Mr. T. Ryan : So far as Government are aware there are none, as the system of employing unpaid probationers in post offices was prohibited in 1928.

CONSTITUENCY THROUGH WHICH BUDDHISTS IN CHITTAGONG VOTE FOR THE LEGISLATIVE ASSEMBLY AND THE LOCAL COUNCIL.

559. ***Mr. Muhammad Anwar-ul-Azim** : Through what constituency do the Buddhists in Chittagong vote for the Assembly and the Local Council ? Is it not a fact that the Buddhists are classed as Hindus for all political purposes ?

The Honourable Mr. H. G. Haig : The Honourable Member is referred to the proviso to paragraph 5 of Part III of Schedule II to the Legislative Assembly Electoral Rules and to paragraph 2 of Schedule II to the Bengal Electoral Rules from which he will observe that a Buddhist in Chittagong is entitled to vote in any general non-Muhammadan constituency for which he is otherwise qualified. Copies of the Electoral Rules are in the Library of the House.

Mr. B. Das : Are not Buddhists, Europeans, Parsis and Hindus all classed in general constituency, and there are no Hindu constituencies under the present electoral system ?

The Honourable Mr. H. G. Haig : There is no constituency which is designated Hindu. Non-Muhammadan is, I think, the name.

DUTIES OF A HEAD POST MASTER IN A FIRST CLASS HEAD POST OFFICE IN BENGAL.

560. ***Mr. Muhammad Anwar-ul-Azim** : What are the duties of a Head Post Master in a first class Head Post Office in Bengal ?

Mr. T. Ryan : The duties of a first class Head Postmaster, whether in Bengal or elsewhere, are the supervision and control of the head post offices itself and of the sub and branch post offices under its jurisdiction.

DAILY PERMISSION SOUGHT BY POSTAL CLERKS LIVING OUTSIDE THE TOWN TO GO HOME.

561. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state whether a clerk in the post office who lives beyond the limit of the town has got to take permission from the Post Master every day to go to his home outside the town ? If so, why ?

Mr. T. Ryan : According to the strict interpretation of the departmental rule on the subject it would be necessary for the clerk to obtain permission, but Government have no reason whatever to believe that compliance with the rule is insisted on by Heads of Offices in such cases as that mentioned by the Honourable Member.

INVESTIGATION IN THE MATTER OF HANDLING WORK AT THE CHITTAGONG JETTIES.

562. ***Mr. Muhammad Anwar-ul-Azim** : (a) Will Government please state whether the Assam Bengal Railway has yet discovered if it will cost them less to have the handling work at the Chittagong jetties like the other commercial concerns such as the Burma Oil Company and British India Steam Navigation Company, at Chittagong who are having their loading and unloading work direct, without reference to a middleman ?

(b) Will Government please state whether Sir George Rainy gave any undertaking to have this matter of handling work at Chittagong jetties investigated ? If so, when ?

Mr. P. R. Rau : (a) The Agent, Assam Bengal Railway, reported to the Railway Board last year that he did not consider he could get the work done satisfactorily at cheaper rates than were then being paid.

(b) I would refer the Honourable Member to the reply given by Sir Alan Parsons to his question No. 80 on the 9th September, 1931.

RECRUITMENT OF MUSLIMS IN THE OFFICE OF THE PORT COMMISSIONERS OF CHITTAGONG.

563. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state how many new recruits have been added to the office of the Port Commissioners at Chittagong and how many of them have gone to Muslims ? Was any pledge given by Sir George Rainy in that behalf ? If so, what ?

The Honourable Sir C. P. Ramaswami Aiyar : Since 1928 four new recruits have been added to the clerical cadre in the offices of the Commissioners for the Port of Chittagong, of whom one is a Muslim. With regard to the second part of the Honourable Member's question, I am not aware that the Honourable Sir George Rainy gave any pledge regarding the appointment of Muslims under the Commissioners for the Port of Chittagong. In this connection I would invite the Honourable Member's attention to the reply given to his question No. 552 on the 17th September, 1928.

Mr. Muhammad Anwar-ul-Azim : Did not Sir George Rainy's reply connote that the Muslims ought to get at least one-third of the new vacancies ?

The Honourable Sir C. P. Ramaswami Aiyar : I did not quite catch the Honourable Member's question, but I may point out that what Sir George Rainy said on the last occasion and is referred to in the answer is this :

"Government are informed that while the Port Commissioners consider that increased efficiency in the work of the port should be their first aim, they have already decided that, in order to bring the proportion of Muslims in their ministerial staff up to one-third of the total cadre, preference will, other things being equal, be given to qualified Muslim candidates for vacancies, except those filled by promotion from the permanent staff, until the above limit is reached."

AERODROME AT CHITTAGONG.

564. ***Mr. Muhammad Anwar-ul-Azim** : Will Government please state for what purpose the aerodrome at Chittagong has been built and at

what cost ? What purpose is it serving now ? When will it be utilised for Air Service ? Do Government propose to lease that out to settlers now ?

The Honourable Sir Frank Noyce : (a) The landing ground at Chittagong was constructed as an emergency landing ground for aeroplanes flying on the trans-India route. The total cost of constructions was Rs. 1,84,600.

(b) The landing ground is serving the purpose for which it was constructed, that is, for the landing of aeroplanes in emergency and occasional aeroplanes which may have to visit Chittagong.

(c) Ultimate developments cannot be forecast, but if and when other air services across India are established, Chittagong may be a regular port of call.

(d) Only to the extent that may be necessary for aviation purposes.

AMOUNT SPENT FOR THE RAILWAY UP TO THE CHITTAGONG AERODROME.

565. ***Mr. Muhammad Anwar-ul-Azim :** How much has it cost the Port authorities at Chittagong to have a Railway up to the Chittagong aerodrome ?

The Honourable Sir C. P. Ramaswami Aiyar : The railway in question is a part of the Port Revetment Siding, which was constructed for the sole purpose of carrying stone to the site of the river improvement works. The siding is about $3\frac{1}{2}$ miles long, and cost Rs. 1,62,133 exclusive of land acquisition. The aerodrome is situated .56 mile down the siding.

PREPONDERANCE OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE PUNJAB AND NORTH-WEST FRONTIER CIRCLE.

566. ***Sardar Sant Singh :** (a) Are Government aware that in the Punjab and North-West Frontier Circle there is a working staff of nine Muslim Superintendents of Post Offices against four Hindus and that a Muslim Superintendent has recently been transferred from the United Provinces Circle to further increase the preponderance of Muslim Superintendents ?

(b) Is it a fact that both Deputy Post Masters General of that Circle are also Muslims ?

(c) Is it not the declared policy of Government to prevent the preponderance of any single community in any province or cadre ? If so, will Government state their reasons for the disregard of this policy in the present case ?

(d) Will Government please state which is the minority community for the purposes of recruitment to service of the Posts and Telegraphs Department in the Punjab and North-West Frontier Circle ?

(e) Do Government propose to consider the desirability of removing the present communal disproportion in this respect in the Punjab and North-West Frontier Circle ?

The Honourable Sir Frank Noyce : (a) The fact is not as stated by the Honourable Member. There were nine Muslim Superintendents and

five Hindu Superintendents in a total staff of 22, and these numbers still continue. The Muslim Superintendent recently transferred from the United Provinces has taken the place of a Muslim Superintendent who died and his transfer was not based on communal grounds.

(b) Yes.

(c) No. The orders for the adjustment of communal inequalities apply only to new recruitment to a service. Superintendents of Post Offices and Deputy Postmasters-General belong to a service common to the whole of India and Burma and are posted to the various postal circles according to the requirements of the service. Such postings are not made solely on communal considerations.

(d) Ordinarily Muhammadans, Anglo-Indians, Indian Christians and Sikhs.

(e) The attention of the Honourable Member is invited to the reply given in this House to part (b) of Bhai Parma Nand's starred question No. 461 on the 22nd February, 1932.

ALLEGED DISCONTENTMENT AMONG QUALIFIED STENOGRAPHERS OF THE
PUNJAB AND NORTH-WEST FRONTIER POSTAL CIRCLE.

567. *Sardar Sant Singh : (a) Is it a fact that each of the four posts of stenographer camp clerks in the office of the Post Master General, Punjab and North-West Frontier Circle, are prize posts carrying additional pay of Rs. 25 per mensem in the case of those attached to Deputy Post Masters General and Rs. 50 per mensem in the case of Post Master General and Director of Telegraphs ?

(b) Is it a fact that Mr. J. R. T. Booth while Post Master General, Punjab and North-West Frontier Circle, now senior Deputy Director General, introduced the practice of limiting the tenure of these posts by any particular holder to a period of not more than three years, so as to afford an opportunity to all competent clerks with an efficiency in shorthand to draw the additional pay in turn ?

(c) Is it a fact that this practice has been abandoned by the present Post Master General, Punjab and North-West Frontier Circle, and the posts have now been made the exclusive monopoly of existing incumbents ?

(d) If the reply to part (c) above be in the affirmative, will Government please state whether they are prepared to rule that these prize posts should not be made the monopoly of the existing incumbents ?

(e) Is it a fact that one of the incumbents, viz., Camp Clerk to the Post Master General, has held these posts and drawn one or other of the additional pay for a total period of about 7½ years ?

(f) Are Government aware that there is a great deal of discontent amongst other qualified stenographers of the Punjab Circle Office on account of such specially favoured treatment and will Government please state whether and when the present incumbents will be replaced by other efficient stenographers ?

Mr. T. Ryan : (a) The facts are substantially as stated by the Honourable Member.

(b) to (f). Government have no information. The matter is within the competence of the Postmaster-General, Punjab and North-West Frontier, to whom a copy of the question is being sent.

AMOUNT SPENT BY ARMY HEADQUARTERS AUTHORITIES ON THE TRAIN
RUNNING BETWEEN SIMLA AND SUMMER HILL.

568. ***Sardar Sant Singh :** (a) Is it a fact that the Summer Hill Quarters were built primarily for the Territorial Forces at Army Headquarters during the War time ?

(b) Is it a fact that the area is still called the Summer Hill Camp and that there is still a Sergeant from a British regiment in charge of the Camp ?

(c) Is it a fact that consequent on what is stated in part (a) above, the Army Headquarters have run and still continue to run a train for their staff to and from this Camp ?

(d) What amount is spent monthly by the Army Headquarters authorities on this train ?

Mr. G. R. F. Tottenham : (a) No, Sir. The quarters were originally built to provide accommodation for European clerks of the Government of India offices, including Army Headquarters.

(b) It is no longer called a camp nor is there a British sergeant in charge.

There is, however, a British non-commissioned officer at Summer Hill who supervises the issue of rations to His Excellency the Viceroy's Body-guard and Band.

(c) A special train is run on working days between Summer Hill station and Simla Goods Shed in which accommodation is reserved for military and civilian clerks working at Army Headquarters and at Summer Hill.

(d) A payment of Rs. 30 a day is made on this account.

Sir Muhammad Yakub : How much is spent daily on running this train ?

Mr. G. R. F. Tottenham : Thirty rupees a day.

Sir Muhammad Yakub : Is any charge levied from the clerks who travel by this train ?

Mr. G. R. F. Tottenham : Not from those at Army Headquarters. I believe that certain members of the public also use this train and they pay for their tickets.

Sir Muhammad Yakub : Considering the financial crisis in this country, do Government propose to reduce this unnecessary expense of Rs. 30 a day in running this special train only for Military Department clerks when no other clerks in the Government of India get any conveyance without paying for it ?

Mr. G. R. F. Tottenham : Government have not yet considered that matter, nor do I imagine that the saving of this amount would relieve the financial crisis to any very great extent, but, if the Honourable Member wishes, I will inquire into the matter further.

Dr. Ziauddin Ahmad : Has the Honourable gentleman considered that this special train should be made available to clerks belonging to other departments ?

Mr. G. R. F. Tottenham : As I say, this train is, I believe, already used by others.

Dr. Ziauddin Ahmad : On payment or without payment ?

Mr. G. R. F. Tottenham : On payment for their tickets.

Dr. Ziauddin Ahmad : Will the Honourable gentleman consider that all the employees in the Secretariat should be put on the same footing ?

Mr. G. R. F. Tottenham : I do not think that is a question for me to consider.

SPECIAL TRAIN FOR CIVILIAN CLERKS BETWEEN SUMMER HILL AND SIMLA.

569. ***Sardar Sant Singh :** (a) Is it a fact that the Government of India have now decided to allot the Summer Hill quarters to the civilian staff of the Secretariat ?

(b) Do Government desire that only those living in European style are to be allotted these quarters ?

(c) Are Government aware of the fact that the timings of the Army Headquarters Summer Hill local train are unsuitable to the Civil Secretariat staff ?

(d) Before allotments were made, did Government consider the advisability of running local trains for the convenience of such men ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). The position is that the quarters at Summer Hill which were previously intended for European staff, both civil and military, are now open for allotment to clerks who live in European style.

(c) Government are aware that the timings are not entirely suitable for clerks who work in the Civil Secretariat.

(d) No ; the number of clerks belonging to the Civil Secretariat who live at Summer Hill is not large and it is within the discretion of various Departments to allow such of their clerks as may reside at Summer Hill and who arrive in office by 9-45 A.M. to leave office at 4 P.M. to take advantage of the special train which is run for the Army Headquarters staff.

FREE MEDICAL ATTENDANCE AND DISPENSARIES FOR THE SECRETARIAT STAFF AT SUMMER HILL.

570. ***Sardar Sant Singh :** (a) Have Government arranged for free medical attendance and dispensaries for the Secretariat staff at Summer Hill ?

(b) Is it a fact that the Medical Officer in Summer Hill Camp refused to attend the fever-stricken Indians of the Secretariat establishment on the plea that he was meant only for the Army Headquarters staff ? If so, what action have Government taken to remove this grievance of the Secretariat staff ?

Mr. G. S. Bajpai : (a) The staff in question is already entitled to receive free medical attendance. The question of making the services of the doctor in charge of the personnel of Army Headquarters at Summer Hill available for attendance on clerks in the civil employ of the Government of India who reside there is under consideration.

(b) Government are making enquiries.

SCHOOLS FOR THE CHILDREN OF THE ARMY HEADQUARTERS AND SECRETARIAT STAFF IN SUMMER HILL.

571. ***Sardar Sant Singh :** (a) Are there any schools for the education of the children of the Army Headquarters or the Secretariat Staff in or near the Summer Hill Camp ?

(b) If not, what will be the position of the education of the children without such facilities ?

(c) Are Government aware that the parents will have to incur expenses on rickshaws and railway fares for sending their children for attending schools in Simla ?

(d) Prior to making the allotments, did Government consider all the pros and cons before they took their decision ? If not, why not ?

Mr. G. S. Bajpai : (a) There are Municipal Board Primary Schools for boys and girls in Roileauganj, which is not far from Summer Hill.

(b) This does not arise.

(c) Government have received no representation in the matter.

(d) Government took the decision so as to make Indian clerks, living in European style, eligible for those quarters. The question whether the balance of convenience is in favour of residing in such quarters is for each individual concerned to decide.

ALLOTMENT OF SUMMER HILL QUARTERS.

572. ***Sardar Sant Singh :** (a) Is it a fact that the allotments made this year in Summer Hill have been subject to a remark that the allottees will have " no lien " on the quarters allotted ?

(b) If so, have Government taken into consideration the possibility of these men having to undergo dislocation and shifting expenses no sooner they are " settled down " ?

The Honourable Sir Frank Noyce : (a) and (b). The remark referred to applies only to those who have received allotments in a class of houses to which they are not ordinarily entitled by their pay but even such persons will not be disturbed during the period for which the quarters have been allotted to them.

COMMUNAL COMPOSITION OF THE MECHANICAL DRAWING OFFICE, CARRIAGE AND WAGON SECTION, NORTH WESTERN RAILWAY.

573. ***Sardar Sant Singh :** Will Government be pleased to state the number of Muhammadans, Hindus and Sikhs in the Mechanical Drawing Office, Carriage and Wagon Section, Headquarters North Western Railway ?

Mr. P. R. Rau : For reasons that have been often explained by my predecessor on the floor of this House, Government regret that they are unable to supplement the information contained in the annual administration reports by giving details of the communal composition of individual offices.

CONSTRUCTION OF MAHANADY CANAL IN ORISSA.

574. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the name of the company which began the construction of the Orissa Canal (Mahanady Canal) system ;
- (b) the year when construction began as also the year when it ended ;
- (c) the total amount invested by the said company ;
- (d) the reason why Government purchased the above canal system from the company ;
- (e) the total capital outlay thereon on its completion and the rate of interest on the capital outlay on the said canal system ;
- (f) whether the people desired it ; and
- (g) the reason why it was claimed as a protective work ?

The Honourable Sir Frank Noyce : (a), (b), (c) and (d). The Honourable Member is referred to pages 51—54 and 208 of the Triennial Review of Irrigation in India, 1918—1921, copies of which are in the Library of the House.

(e) The total capital outlay on the completion of the project was Rs. 2,60,27,000. The rate of interest during 1930-31 was 3.3252 per cent. in respect of the capital outlay to the end of the year 1916-17 and 6.11 per cent. on the subsequent outlay.

(f) I regret that no information on this point is now available.

(g) The project was not classified as a protective work. It is, however, of the greatest value from a purely protective point of view as explained on page 54 of the Review referred to in reply to the earlier parts of the question.

Mr. B. Das : Is the Honourable Member aware that this canal system was built in 1863 under the scheme of opening inland navigable canals and Sir Henry Cotton of Madras wanted to build navigable canals from Madras to Calcutta and that at present half of this canal is out of order because of sea water ?

The Honourable Sir Frank Noyce : I have read the past history of the Canal in the Triennial Review to which I have referred my Honourable friend, Mr. Misra

Mr. B. N. Misra : What is the length of this canal in Orissa Division at present ?

The Honourable Sir Frank Noyce : I am afraid I shall have to ask for notice of that question.

Dr. Ziauddin Ahmad : Do Government contemplate that this concern will be a paying concern, if not now, in the future ?

The Honourable Sir Frank Noyce : I should think from the facts I have stated in the reply to the question that it is extremely improbable.

CONSTRUCTION OF THE RUSHIKULYA AND THE GANJAM GOPALPUR CANAL SYSTEMS.

575. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the dates when the Rushikulya canal system and the Ganjam Gopalpur canal were constructed ;
- (b) the capital outlay on each of these two works separately ;
- (c) the rate of interest per cent. payable on the capital outlay on each of these two works ; and
- (d) the object for which the Ganjam Gopalpur canal was constructed ?

The Honourable Sir Frank Noyce : (a) The Rushikulya canal system was completed in 1901 and the Ganjam Gopalpur canal in 1893.

(b) The capital outlay to end of the year 1930-31 was Rs. 54,00,731 on the Rushikulya system and Rs. 1,55,493 on the Ganjam Gopalpur canal.

(c) The rate of interest during 1930-31 is 3.3252 per cent. on outlay to the end of 1916-17 and 5.44 per cent. on the subsequent outlay.

(d) The object for which the construction of the canal was undertaken was to complete the water communication between the country bordering the Chilka Lake and Gopalpur, then the port of the Ganjam District, and to provide a link in the system of inland water communication with Calcutta if in the future through communication should be established.

Dr. Ziauddin Ahmad : If Orissa is separated from Bihar, then on whom will this burden of the capital outlay fall ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : How does that question arise now ?

CONTRIBUTION BY THE GOVERNMENT OF INDIA TO CERTAIN PROVINCIAL GOVERNMENTS FOR CONSTRUCTION OF GOVERNMENT BUILDINGS.

576. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the amount of money that they have contributed to the Government of Bihar and Orissa for the construction of their buildings at the headquarters of Patna and Ranchi, including the Government houses, Secretariat buildings and such other allied buildings ; and
- (b) the amount of money that they sanctioned for the construction of such buildings in Assam after 1913 up-to-date ?

The Honourable Sir Frank Noyce : (a) and (b). The information is being collected and such information as is found to be available will be laid on the table of the House in due course.

DELIMITATION OF THE ORIYA TRACTS IN MADRAS.

577. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) whether they have asked the Government of Madras to take the opinion of the Local Legislative Council (where the

number of Oriya members is less than three per cent.) under Section 52A of the Government of India Act, regarding the delimitation of the Oriya tracts in Madras Province proposed by the Orissa (O'Donnel) Committee ?

- (b) If the answer is in the affirmative, the reasons therefor ; and
(c) whether they will be pleased to lay on the table .

- (i) the letter of the Government of Madras containing its views regarding the delimitation of the Oriya tracts in Madras Province as proposed by the Orissa Boundary Committee ;
(ii) the proceedings of the Madras Legislative Council of 2nd, 3rd and 4th August, 1932, relating to the same ; and
(iii) the percentage of Oriya members and their number in Madras Legislative Council ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) and (b). No reference was made under section 52-A. of the Government of India Act, 1919. The Local Governments were asked to report how the recommendations of the Orissa Boundary Committee had been received and a discussion in the Legislative Council is one obvious means of ventilating such a matter.

(c) (i) The whole question is under examination and Government do not propose to lay on the table the views of the Local Government.

(ii) The proceedings of the Madras Legislative Council are received in the Library of the House and the Honourable Member may see them there.

(iii) I have no information but observe that the Honourable Member seems to be already in possession of the facts.

Mr. B. Das : Why is it at all necessary for the Government of India to refer to the Madras Government, when the Government of India know it for a fact that from 1903 up to this date the Government of Madras have consistently opposed transfer of any portion of the Oriya tracts from the Madras Presidency to Orissa ?

The Honourable Sir C. P. Ramaswami Aiyar : There are two answers to that question : In the first place, it is not the policy of Government to decline to ask the opinion of persons who may have definite opinions to offer ; and the second answer is that the Madras Legislative Council is concerned in this matter because the Madras Presidency comprises areas which are sought to be included in the future Orissa province if it should come into existence.

FORMATION OF A SPECIAL AGENCY DIVISION OUT OF GANJAM AND VIZAGAPATAM DISTRICT AGENCY TRACTS.

578. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the date and the year when the Government of Madras submitted proposals to the Government of India for the formation of a special agency division in 1919-20 out of Ganjam and Vizagapatam District Agency Tracts ;
(b) the estimated cost of expenditure for the administration of the special agency division and also the schemes of development proposed along with the said proposal for the creation of the special agency division ; and

- (c) whether these expenses were taken into consideration when the Madras Government claimed to be relieved of its contributions to the Government of India ?

The Honourable Mr. H. G. Haig : (a) 27th February, 1920.

(b) The initial non-recurring expenditure was roughly estimated at ten lakhs and the recurring expenditure was estimated to be about the same sum. The policy of the Government was the general development of these backward areas in almost the entire field of general administration.

(c) Yes.

Mr. B. Das : Is it not a fact that in 1920 and also in 1925 when the Madras Government repeatedly pressed on the Government of India for remission of provincial contributions, they brought out the administration of Agency tracts as an instance for immediate remission of the provincial contributions ?

The Honourable Mr. H. G. Haig : I am afraid that is a question of which I shall have to ask for notice.

STATEMENTS LAID ON THE TABLE.

The Honourable Mr. H. G. Haig (Home Member) : Sir, I lay on the table the information promised in reply to starred question No. 44 asked by Mr. A. Das on the 6th September, 1932.

PRINTING PRESSES ASKED TO FURNISH SECURITY UNDER THE ORDINANCES.

44. *Statement showing names of Presses, etc., from which security was demanded from 1st January to 31st July 1932, under the Indian Press (Emergency Powers) Act, 1931, as amended by Section 63 of the Emergency Powers Ordinance II of 1932, and Section 77 of Ordinance X of 1932.*

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
MADRAS.	Rs.		
1. Lakshmi Press, Madras, 22nd January 1932.	500	No	Notice demanding security was withdrawn as the keeper apologised and gave an undertaking in writing.
2. Current Thought Press, Madras, 22nd January 1932.	500	No. The Press closed down.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
MADRAS— <i>contd.</i>	Rs.		
3. Nehru Printing Press, Madras, 22nd January 1932.	1,000	Deposited	The security was demanded by the Chief Presidency Magistrate, Madras, under Section 3 (1) of the Indian Press (Emergency Powers) Act, 1931. Security was refunded on application under section 3 (2) of the Act.
4. Satyagrahi Press, Ellore, 27th January 1932.	500	No	The Press was taken possession of under the Unlawful Association Ordinance, IV of 1932 and it was decided to forfeit the Press to His Majesty.
5. Sri Vidyaranya Press, Bellary, 4th February 1932.	500	No. The Press closed down.	
6. Labour Press, Madras, 17th February 1932.	500	No	Notices withdrawn as the keeper apologised and gave an undertaking in writing.
7. Raju Press, Saidapet, 29th February 1932.	500	The Press remained closed until 13th August 1932 on which date the security amount was deposited.	The keeper deposited the security on the 13th August 1932 until which date the press remained closed.
8. Sutandira Sangu Press, Madras, 14th March 1932.	500	No. The Press was not opened.	Demanded by the Chief Presidency Magistrate, Madras, under section 3 (1) of the Act.
9. Raja Press, Madura, 6th May 1932.	1,000	Yes. Deposited ..	The security was demanded by the District Magistrate of Madura under Section 3 (1) of the Act.
BOMBAY.			
1. Hubli Printing Works (Dharwar), 12th January 1932.	500	No. Press closed down	Security was required by the D. M., Dharwar.
2. Free Press Bulletin Press (Bombay), 19th February 1932.	3,000	Deposited	Security had been demanded by Government on the 8th February 1932 but was not deposited, and security was therefore demanded by the Chief Presidency Magistrate from the new keeper of the same press on his making a declaration, and was due for refund three months later.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BOMBAY— <i>contd.</i>	Rs.		
3. Bharat Printing Press (Hubli—Dharwar District), 11th February 1932.	500	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.
4. Navjivan Mudranalaya (Ahmedabad), 11th February 1932.	2,500	No. Press closed down before the security was required.	
5. Karnatak Printing Press (Bombay), 12th February 1932.	3,000	Deposited.	
6. Maratha Printing Press (Bombay), 20th February 1932.	1,000	Not deposited ..	As the press continued to be used without depositing the security it was forfeited under section 12(2) of the Press Act. An application to set aside the notice of forfeiture was recently rejected by the High Court.
7. Kesari Press (Poona), 18th February 1932.	1,000	Deposited.	
8. Kaliyuga Printing Press (Bombay), 24th February 1932.	2,000	No. Press closed down.	
9. Raja Printing Works (Karachi), 26th February 1932.	1,500	No. Press closed down.	
10. Maratha Printing Press (Bombay), 3rd March 1932.	3,000	No	<div> <i>Vide</i> remarks against serial No. 6. These were demands for security by the Chief Presidency Magistrate from other persons making declarations in an attempt to evade the provisions of the Press Act. </div>
11. Maratha Printing Press (Bombay), 12th March 1932.	3,000	No	
12. Hubli Printing Works (Hubli), 8th March 1932.	250	Deposited.	
13. Bhuvaneshwari Printing Press (Belgaum), 4th March 1932.	500	No. Press closed down.	
14. Indian Daily Mail Press (Bombay), 11th March 1932.	3,000	No. Press closed down	An application to set aside the notice was rejected by the High Court.
15. Hari Har Printing Press (Bombay), 17th March 1932.	2,000	No. Press closed down	Notice was subsequently withdrawn by Government, on the keeper tendering an apology.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BOMBAY— <i>concl'd.</i>	Rs.		
16. Chitrashala Press (Poona), 19th March 1932.	2,000	Deposited.	
17. Kanakadittya Printing Press (Dharwar), 14th March 1932.	101	Deposited	Security was required by the District Magistrate, Dharwar.
18. Indian Daily Mail Printing Press (Bcm-bay), 29th March 1932.	3,000	No	<i>Vide</i> serial No. 14. This was demanded by the Chief Presidency Magistrate on another person making a declaration as keeper while the security required by Government had not been deposited.
19. Bhuvaneshwari Printing Press (Belgaum), 13th April 1932.	500	Deposited	<i>Vide</i> serial No. 13. Another person made a declaration as keeper and deposited the security required by the District Magistrate.
20. Nava Yuga Printing Press (Hyderabad), 30th April 1932.	500	No. Press closed down	Security was required by the District Magistrate.
21. Saurashtra Mitra Press (Ranpur, Ahmedabad District), 30th April 1932.	500	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.
22. Shakti Job Printing Press (Hyderabad), 3rd May 1932.	500	No. Press closed down	Security was required by the District Magistrate, Hyderabad.
23. Bombay Chronicle Printing Press (Bombay), 21st May 1932.	3,000	Deposited.	
24. Majoor Mudranalaya (Ahmedabad), 30th May 1932.	2,000	No. Press closed down.	
25. Free Press Bulletin Press (Bombay), 14th June 1932.	3,000	Deposited	(<i>Vide</i> also serial No. 2.) This security deposited in June was forfeited by Government and a fresh security of Rs. 5,000 was deposited under section 5 (1) of the Press Act.
26. Mahomedi Fine Art Litho-Printing and Book Binding Works (Bombay), 29th June 1932.	2,000	No. Press closed down	Notice was subsequently withdrawn by Government on the keeper tendering an apology.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BENGAL.	Rs.		
1. Hari Press, 16th January 1932.	1,000	No. Press closed down.	
2. The Indian Daily News Press, 15th January 1932.	3,000	Deposited.	
3. Swatantra Press, 6th January 1932.	1,500	No. Press closed down.	
4. The Excelsior Art Press, 19th January 1932.	1,000	Exempted and order withdrawn.	
5. The Sakti Press, 19th January 1932.	1,000	Deposited	On representation it was reduced to Rs. 500.
6. The Basanti Press, Calcutta, 26th January 1932.	1,000	Closed down.	
7. The Bengal Art Syndicate Press, Calcutta, 2nd February 1932.	1,000	Deposited	On representation security was reduced to Rs. 500.
8. The Saogat Ltd. Press, Calcutta, 26th January 1932.	1,000	Exempted	On representation exempted from deposit of security.
9. The Videc Press, Calcutta, 3rd February 1932.	1,000	Deposited	On representation security reduced to Rs. 500.
10. The Sree Krishna Printing Works, Calcutta, 6th February 1932.	1,000	Ditto.	
11. The Lokmanya Press, Calcutta, 6th February 1932.	2,000	Ditto	On representation security reduced to Rs. 1,000.
12. The Vihari Press, Calcutta, 17th February 1932	500	Ditto.	
13. The Calcutta Printing Works, Calcutta, 3rd March 1932.	500	Ditto.	
14. Arjya Printing Works Press, 23rd April 1932.	2,000	No. Closed down.	
15. Jiwan Press, 5th May 1932.	1,000	Ditto.	
16. Bijoya Press, 9th May 1932.	500	Ditto.	
17. The Ananda Press, 26th May 1932.	1,000	Deposited.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
BENGAL— <i>contd.</i>	Rs.		
18. Vaidik Press, 30th May 1932.	500	No. Closed down.	
19. Amrita Bazar Patrika Press, 22nd June 1932.	3,000	Deposited.	
20. The Basumati Electric Machine Press, 29th June 1932.	500	Ditto.	
21. The Shivaji Press, 8th July 1932.	1,000	....	No report yet.
UNITED PROVINCES.			
1. Adarsh Press, Agra ..	1,000	No. Press closed down.	
2. The Coronation Press, Cawnpore.	3,000	Ditto.	
3. The Vidya Bhandar Press, Lucknow.	1,500	No. Press closed down.	
4. Janardhan Press, Cawnpore.	500	Press not opened.	
5. Maha Lachmi Press, Cawnpore.	200	Ditto.	
6. Sewak Press, Allahabad	500	Ditto.	
7. Onkar Press, Cawnpore	250	Deposited.	
8. Shanker Press, Cawnpore.	1,500	No. Press closed down.	
9. The Fine Art Printing Cottage Press, Allahabad.	1,000	No. Security was demanded because the press proposed to print a newspaper, which, it was suspected, would contain matter described in section 63 of Ordinance II of 1932. As a result of the demand of security the press did not print the newspaper.	

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
UNITED PROVINCE— contd.			
10. Mahalaxmi Press, Cawnpore.	200	Deposited.	
11. Chandra Fancy Press, Cawnpore.	500	Ditto.	
12. Jagdish Press, Kashi-pur district, Naini Tal.	500	No. Press closed down.	
PUNJAB.			
1. Virjanand Press, Lahore	2,000	Deposited, but it has since been refunded under section 3 (2) of the Indian Press (Emergency Powers) Act, 1931.	Action taken under Act XXIII of 1931.
2. Khalsa National Press, Jullundur.	3,000	No. Press closed down	Ditto.
3. Mercantile Press, Lahore	3,000	Deposited, but the amount was first reduced to Rs. 500 which was later on refunded as matter of mercy.	Action taken under section 63 of the Emergency Powers Ordinance.
4. Maqbul-i-Am Press, Lahore.	1,500	Deposited	Ditto.
5. Shri Ganga Electric Press, Amritsar.	3,000	No. Press closed down	Ditto.
6. Onkar Press, Amritsar	3,000	Ditto ..	Ditto.
7. Iqbal Steam Press, Lahore.	2,000	Ditto ..	Ditto.
8. Desh Press, Lahore ..	3,000	Ditto ..	Ditto.
9. Nizami Electric Press, Lahore.	3,000	Ditto ..	Ditto.
10. Khalsa Pardesi Malwa Press, Amritsar.	2,500	Ditto ..	Ditto.
11. Muslim Printing Press, Lahore.	2,500	The orders were cancelled on representation.	Action taken under section 63 of E. P. O., 1932.
12. Public Printing Press, Sialkot.	2,000	No. Press closed down	Ditto.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
PUNJAB— <i>contd.</i>			
	Rs.		
13. Mahtab Barqi Press, Amritsar.	2,500	No. Press closed down	Action taken under section 63 of E. P. O., 1932.
14. Parkash Steam Press, Lahore.	3,000	Ditto ..	Ditto.
15. Punjab Printing Press, Montgomery.	1,500	Deposited. The press has changed its name to Public Printing Press.	Action taken under Act XXIII of 1931.
16. Kirti Press, Amritsar ..	3,000	No. Press closed down	Action taken under section 63 of E. P. O., 1932.
17. Harnam Press, Amritsar.	2,000	Ditto ..	Ditto.
18. Education Printing Works, Lahore.	500	Deposited	Ditto.
BIHAR AND ORISSA.			
1. Searchlight Press ..	1,500	No. Press closed down.	
2. Desh Sewak Press, Arrah.	1,000	No. Press closed down.	
3. Satyabadi Press, Cuttack.	1,000	Deposited.	
4. Prajatantra Press, Balasore.	2,000	No. Press closed down.	
5. Bhagwan Press of Sitamarhi, Muzaffarpur.	200	Deposited.	
CENTRAL PROVINCES.			
1. Lokmat Publishing Co., Raja Gokuldas Printing Works, Ltd., Jubbulpore.	2,000	....	Notice withdrawn.
2. Rajasthan Printing and Litho. Works, Ltd.	2,000	Deposited	This has been refunded as the press undertook not to publish objectionable matter in future.
3. Yeotmal Press, Yeotmal	2,000	....	Order demanding security withdrawn.
4. The Arun Press ..	2,000	....	Ditto.

Name of Press, and the date when security was demanded.	Amount of security demanded.	Whether security was deposited or the press closed down failing to deposit security.	Remarks.
1	2	3	4
CENTRAL PROVINCES—contd.	Rs.		
5. Shree Guru Babaji Printing Press.	1,000	....	Keeper of the press being unable to furnish security closed it. Machinery taken over in time by another press which undertook not to publish any literature for the Congress. No further action taken.
NORTH WEST FRONTIER PROVINCE.			
1. Lakshmi Art Steam Press.	1,000	No. Press closed down	
2. George Steam Press ..	1,000	Ditto.	
DELHI.			
1. Hindustan Times Press, 27th April 1932.	Rs. 2,500 each from the publisher of the newspaper and the keeper of the press.	Deposited.	
2. Hindu Sansar Press (proposed), 19th April 1932.	500	Not deposited ..	Orders passed by Magistrate on request to make declaration.

Mr. P. R. Rau (Financial Commissioner, Railways) : Sir, I lay on the table the information promised in reply to unstarred question No. 28 asked by Mr. Bhuput Sing on the 5th September 1932.

GRANT OF LEAVE IN TRANSPORTATION AND COMMERCIAL BRANCHES OF THE JUBBULPORE DIVISION, GREAT INDIAN PENINSULA RAILWAY.

28. (a) The procedure followed in granting leave to the employees of the Commercial Branch of the Jubbulpore Division, Great Indian Peninsula Railway, is the same as in the Transportation branch of that division, when, however, the employees apply for leave long before they require it; they are granted leave in term as relieving staff become available.

(b) Leave for three days and under is granted by station masters at important stations, in anticipation of sanction from the Divisional Traffic Manager.

(c) Does not arise.

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Mr. President, I desire to request you to arrange for a sitting of this House on Friday. My reasons are these. As Honourable Members are aware, there is a considerable volume of Government business to be done, and the Bill sponsored by my Honourable friend, the Home Member, is expected to last some days in discussion. The exact time is not known now, but estimates have varied from two to four days ; but whatever may be the correct estimate...

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Why not six ?

The Honourable Sir C. P. Ramaswami Aiyar : Or six or eight. Whatever it be, it is evident that practically the whole of the next week will be devoted to the consideration of that business. It will be observed that there are certain other items of Government business,—Mr. Metcalfe's Bill, further consideration of the Honourable Sir Frank Noyce's Bill regarding Workmen's Compensation, and the consideration of the Bill to amend the law relating to emigrant labourers in the tea districts of Assam, the Income-tax Bill and one or two Resolutions. These are matters which have to be disposed of before the session concludes. The alternative will be that after the 29th or 2nd or 3rd when Mr. Haig's Bill is through, if the longer estimates are accepted, there will be another day necessary, and it is in order to make perfectly clear that Government do not want to extend the time longer than is absolutely necessary and to take advantage of one intervening day that I am asking your permission with the assent of the House to arrange for a sitting on Friday.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Honourable Member are aware that it is in the discretion of the Chair to direct whether there will be a meeting on Friday or not.

An Honourable Member : Why not on Sunday ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order. The Chair has tried to exercise its discretion in co-operation with Honourable Members. The alternatives are either to meet on Friday and dispose of outstanding business, or to alter the order paper today so that the Ordinance legislation may come up on Monday. Honourable Members are aware that a large number of Members coming from Bengal have pressed the view not to allow any extension of the Session. They desire to conclude the Session on the 28th, or, at the latest, on the 29th...

Mr. S. C. Mitra : Our special point was not to sit on the 29th. If necessary, we can sit on the 28th or 30th, but not on the 29th.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair was informed that the Pooja Holidays fall in early October... October...

Mr. S. C. Mitra : Yes, that is on the 6th.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : And that the Honourable Members desire not to sit later than the 28th, if possible.

That being so, the alternatives for consideration are, either to sit on Friday and try to finish the business before the House by the 28th, or not to sit on Friday, and take the risk of an extension of the Session.

Some Honourable Members : No, no.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : These are the two alternatives...

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : My proposal is that as an alternative we should sit on Sunday instead of Friday. (Applause.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair thought that the occasion was much too serious for a suggestion of that kind to be made. I should like to know what the view of Honourable Members is as regards the two alternatives which the Chair has put before them. The first alternative is to sit on Friday and try to finish the Session by the 28th (*Some Honourable Members* : " Yes "), and the other is to risk an extension of the Session. (*Some Honourable Members* : " No. ") I take it that the general sense of the House is that the Assembly should sit on Friday.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : I would suggest your taking up this question after Lunch.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair cannot do it. Honourable Members are aware that according to the rules which have been laid down for admission to the Visitors' Gallery a decision must be taken now in order to enable passes to the Visitors' Gallery to be issued in the course of the day. Honourable Members must indicate their preference now. I take it that the general feeling in the House is that we should sit on Friday.

Maulvi Muhammad Shafee Daoodi (Tirhut Division : Muhammadan) : If you will permit me, I would say one word. It is very inconvenient for some of the Muslim Members to sit on Friday.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair has considered it, and Honourable Members will have noticed that last Friday the Chair adjourned the House at about twenty minutes past twelve. That ought to satisfy them.

Maulvi Muhammad Shafee Daoodi : Even that was inconvenient.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Public business has got to be done, while considerations of religious observances on the part of all communities will be given due weight. The Chair has ascertained the general feeling in the House and proposes to direct that the House do sit on Friday next.

ELECTION OF A MEMBER TO THE STANDING COMMITTEE ON ROADS.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Honourable Members will now proceed to elect a Member to the Standing Committee on Roads. There are three candidates...

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : I beg to withdraw my name.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : One of the candidates has intimated that he withdraws his name. There are, therefore, two candidates whose names are printed on the ballot papers which will now be supplied to Honourable Members in the order in which I call them.

(The ballot was then taken.)

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Legislative Business. Further consideration of the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee.

Mr. Jog, Amendment No. 12.

***Mr. S. G. Jog** (Berar Representative) : Sir, I move :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (g), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

It is a very small amendment and quite a reasonable amendment and, at the same time, an important amendment too. Instead of leaving the matter entirely to the discretion of the magistrate, what, I submit, should be done, is that, a minimum period may be fixed, which period, according to my idea, should not be less than 15 days. When the matter came up for discussion, the other day, it was also referred to that, when you go to the High Court, the High Court ask the party interested whether he has taken the preliminary step of approaching the District Magistrate and, if that has not been done, the High Court straightaway rejects the application. What we have to count upon is that this intermediate stage has to be observed before going to the High Court. So, taking into consideration these two stages, I submit that the period fixed of 15 days is quite reasonable and a provision should be made in the Bill, without leaving the matter to the discretion of the magistrate. When an application is made, there are some sensitive magistrates who think it is an offence or insult to them. I do not mean to say that all magistrates are of this class. There are many magistrates who take it very lightly and think that every facility should be given to the accused to move the higher Courts, so that he should have a fair trial. There should not be the least suspicion in the mind of the accused that he would not have a fair trial. I admit, there are a number of magistrates of this class, but there are also magistrates who, by the mere fact of an application having been made, treat that application as a sort of insult or offence or suspicion against their judicial temperament. Under

* Speech not revised by the Honourable Member.

these circumstances, I submit that the discretion of the magistrate should be limited by fixing this minimum period which should not be less than 15 days. With these observations, I move my amendment.

Mr. Lalchand Navalrai (Sind. Non-Muhammadan Rural) : A similar amendment stands in my name and I have much pleasure in supporting my friend's amendment. I must make it clear to the House what this amendment aims at. It has been known to the House now that an application for transfer of a case from one court to another can be made, i.e., if a party is dissatisfied with that Court on reasonable grounds, an application can be made to the Court which is trying the case for getting an adjournment for the purpose of applying to the High Court for a transfer.

Sir, under the present law, the magistrate or the court to which such an application is made has no option but to accept that application and give time. Now, this Bill aims at curtailing the number of applications for adjournment, making only one postponement compulsory. But, as I have said already in my previous speeches on this Bill, the one compulsory adjournment that is being given is attended with such conditions as take away in effect this privilege. A provision has been put in this amendment that the magistrate will bind down the party concerned to a bond that he shall apply within the time to be fixed by the court, and if he does not make the application, he shall have to pay a penalty of Rs. 200. It is proposed by this amendment that the discretion of the magistrate should be curtailed to some extent, and, with that view, it is suggested not that the maximum limit of time for adjournments should be in any way restricted but that, in order to avoid abuse of this provision, the magistrate or the Court should be compelled to give some minimum time to the party to apply. Sir, you will see the reasonableness of this amendment. But, I must say, that from the attitude that I see has been taken by the Treasury Benches, one cannot but feel that I am perhaps hoping against hope in expecting them to agree. (Laughter.) I know that once they have made up their mind, it becomes very difficult for them to change it, because for them the question of prestige comes in. (Hear, hear.) Sir, on my part I have come to the conclusion that this Bill, if passed, will do great harm to the people in general, to every one from the highest to the lowest. If the accused is not afforded reasonably good time in order to take steps to get his case adjourned, I submit, this Bill will be injurious to the party concerned. What we are submitting in this amendment is that while it is proposed to leave to the discretion of the Government to give time as much as it thinks necessary, we want that that discretion should be curtailed to this extent only that a minimum period of fifteen days must be allowed by it. Sir, the Honourable the Home Member very kindly told us the other day that he was not in favour of restriction being put upon the magistrate or the Court in the matter of giving this time. I think his idea was that sufficient time would always be given by the court. Sir, I must say that although he may think that the magistrates are generous and liberal, I know there are also magistrates who are quite the reverse, and this provision is being proposed for the purpose only of controlling such Courts and such magistrates and preventing them from whittling down what the Legislature contemplates. I am asking for a minimum period to be fixed. Let the magistrate or the Courts be generous ; I shall be very happy to see them grant time liberally to the accused or to the complainant

[Mr. Lalechand Navalrai.]

who apply for time to get the case adjourned. What we want is that the magistrate or the Court should keep temper and coolly consider applications made for time to apply for withdrawal of the case from their Courts. Now every one bewares to apply for transfer for it may be on personal grounds, and he must presuppose that, if his case is not transferred to the Court of some other magistrate, he comes back to the same magistrate and then he will be in a very sad predicament. My amendment, which I have proposed, is a very modest one ; and, Sir, let me see once in a way the Treasury Benches coming round to yield. The other ground, I would put forward in support of this amendment, is this. It has been made clear to the House that it is not one application that shall have to be made for transfer before one goes to the High Court. He must perforce come up first under section 528 to the District Magistrate and get an order from him. If he is unsuccessful, then only he has to go to the High Court. In such a case if time given expires, and the applicant comes back before the magistrate for extension of time, the magistrate might say, " My hands are bound. I shall give you only one adjournment ". So all these things have to be considered, and I submit that this amendment is not only in favour of the accused or complainant, but conduces to the ends of justice, and, with that intention, I support this amendment.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have also great pleasure in supporting this amendment ; which, I submit, is absolutely necessary, in view of the fact that an application can in the first instance be made to the District Magistrate and then to the High Court. Some days must necessarily elapse before the District Magistrate can issue summons to the other party, and for the representation of the other party,—and then some time elapses before final orders are issued. Then alone is the party concerned to go to the High Court. So there must be sufficient time given for the accused to file applications which would enable him to go in the first instance to the magistrate and also, if necessary, to the High Court. Sir, the other day the Honourable the Law Member said that if the party goes to the District Magistrate and spends some time in his Court and then goes to the High Court beyond the limit fixed by the magistrate and in consequence the bond is forfeited, then that will be a good ground for moving the High Court to get his case transferred from the Court of that magistrate to another Court. So he said that there is no necessity for fixing the minimum time. But, Sir, in this case the party is bound to execute a bond that he must file the petition for transfer application and, according to the strict letter of the bond, the magistrate has no other course except to forfeit the bond and ask the party to pay the amount. In the first instance, what will be its effect on the party whether the case is transferred afterwards or not, or whether the magistrate finds there was reasonable ground for the default of the party concerned or not ; according to the strict letter of the bond, if the party has not made an application to the High Court within the time fixed, he has to forfeit the bond. Then the amount has been fixed at a very high figure. I pleaded in vain for reducing that amount. So the party has to pay the money in the first instance, or else he has to suffer such imprisonment as the Court might award if he does not fulfil the terms of the bond in the first instance. So it is quite essential that a minimum period of fifteen days is necessary. If the party goes to

the High Court after the time given by the magistrate and the magistrate forfeits the bond because he has not filed the petition within the number of days fixed, the High Court may take the view that the party was not diligent in filing the application before the magistrate himself in proper time. Supposing an adjournment has been given for applying to the High Court, the party has to go to consult some lawyer or to find some money to enable him to move the application before the Magistrate. He might spend one or two days there. When he goes to the High Court after filing his application before the Magistrate, the High Court may take the view that he did not file his application immediately. The High Court might say : " You have wasted two or three days and, therefore, we do not see any reason why the magistrate should not forfeit the bond. You have not proceeded in the case diligently ". So, Sir, these are the risks which the parties are put to. Hence, instead of leaving the absolute discretion to the magistrate, it will have a salutary effect if 15 days were fixed, which would enable the party to go both to the Magistrate as well to the High Court. For these reasons, Sir, I support the amendment.

The Honourable Mr. H. G. Haig (Home Member) : Sir, my Honourable friend, Mr. Lalchand Navalrai, expressed the hope that we might be convinced by his arguments, but, at the same time, an apprehension that we might be deterred from giving effect to our real convictions owing to considerations of prestige. I need hardly assure the House that in this matter prestige does not enter at all.

Mr. Lalchand Navalrai : We have always had that assurance.

The Honourable Mr. H. G. Haig : We discussed this question in the Select Committee and we discussed it on its merits and we were convinced by argument and not by any other consideration that it was desirable that the discretion in this matter should be left to the magistrates. The amendment which is proposed would lay down a minimum period of 15 days for an application. Well, Sir, the House, I am sure, will agree that in a case like this, unnecessary delay is of no advantage. If the case were being heard in a Presidency town, there could be no reason for an application to the High Court to take 15 days and it would be most undesirable to impose a perfectly superfluous delay in proceeding with the case.

Mr. Lalchand Navalrai : What about the Mufassil ?

The Honourable Mr. H. G. Haig : In the Mufassil, Sir, if more than a week is required for moving the High Court, the magistrate would naturally lay down a reasonable period. The assumption of the Honourable Member is that the magistrate can never be trusted to take a reasonable view. But, Sir, it must be remembered that if a magistrate, in fact, lays down an unreasonable period within which the application should be made to the High Court, the High Court would at once take notice of that action as indicating some prejudice on the part of the magistrate and the accused would, in fact, gain some advantage by this unreasonable action of the magistrate. Sir, I consider that it is most desirable in this matter that the discretion should be left, as the Bill now leaves it, to be magistrate.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That in part (c) of clause 2 of the Bill, in the proposed sub-section (8), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

The motion was negatived.

***Mr. S. G. Jog** : Sir, I draw the attention of the House to my amendment which runs thus :

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed sub-section (8), for the word ‘ require ’ the word ‘ compel ’ be substituted.”

I would read the whole proviso, so that the House will be able to appreciate what I mean :

“ Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused.”

The word “ require ”, according to my interpretation, leaves no discretion to the magistrate upon a second application to stop further proceedings or to stop taking any evidence in the case of the second application. I could see the point that after one compulsory adjournment is given, the magistrate is not bound not to record evidence or to stop the proceedings. The word “ require ” means that he shall be compelled to go on with the proceedings even though there may be strong grounds for the second application. In many cases, on the second application also, there may be very strong grounds for the transfer and, if the magistrate is satisfied that the grounds are really strong and are in favour of a transfer, the word, as used, leaves him no alternative but to proceed with the case. If my amendment is accepted, it will only mean that nothing shall compel the Court. In other words, even on the second application, it will be entirely in the discretion of the Court either to go on with the case or to stop the proceedings at this stage if he finds that the going on with the case is in no way beneficial either to the prosecution or to the accused. In that case, there should be left a sufficient discretion with the magistrate either to go on with the case or to stop further proceedings. That is the import of the amendment which I have proposed. If the word “ require ” as used in the proviso leaves sufficient discretion and if the Honourable Member explains the position, or if I am satisfied that my interpretation is wrong, I will be glad to withdraw my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment moved :

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed sub-section (8), for the word ‘ require ’ the word ‘ compel ’ be substituted.”

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : Sir, I cannot really see how the substitution of the word “ compel ” for “ require ” will make any difference. If I have understood my friend aright, what he means to say is that the word “ require ” implies a fetter on the discretion of the magistrate, but not so the word “ compel ”. I am opposed to the amendment proposed and I do not think any useful purpose will be served by the substitution.

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I oppose this amendment which is purely a drafting amendment. My Honourable friend, Mr. Jog, said that if I could satisfy him that the word 'require' is an apt expression here, he would be prepared to withdraw his amendment. Sir, the word 'require' appears in the proviso. A proviso has always reference to the main provision. It is a proviso to the main provision. The main provision deals with a mandatory injunction, that is when certain things happen, then there is a mandate upon the magistrate to adjourn the case. Now, in the proviso it is said that the mandate will have no application in certain cases. The word 'require' carries with it the force of the mandatory injunction and it means that nothing herein contained shall operate as a mandatory injunction upon a subsequent intimation. The word 'require' conveys the same meaning as the word 'compel'. From a drafting point of view, it is a better expression. I do not see where the risk is. The magistrate's discretion is left untouched.

Mr. S. G. Jog : Where a second application is made has the magistrate got any discretion or not ?

The Honourable Sir Brojendra Mitter : I am coming to that. If there be no mandatory injunction on the magistrate to adjourn, then his discretion under section 344 is left unaffected. Therefore when a second application is made, what this proviso says is this : you are not compelled to adjourn, but nevertheless you have got to look into the merits of the application and if you are satisfied that an adjournment is necessary, in the ends of justice, then you can exercise your discretion under section 344. It does not in any way tie his hands, it leaves his hands absolutely free. It takes away the mandatory provision of compulsory adjournment, leaving the magistrate to deal with the application in any way he likes. Therefore my submission is.....

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : I want to ask a single question. Supposing in a case there are a number of accused who are all tried together. Supposing one of the accused applies for adjournment and he gets it. Does that preclude the other accused from applying for an adjournment ? Will the applications of the other accused also be dealt with and disposed of on their merits ?

The Honourable Sir Brojendra Mitter : That question is covered by subsequent amendments and I shall answer my Honourable friend's question then. I hope I have satisfied my Honourable friend Mr. Jog that the word 'require' does not tie the hands of the magistrate.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhamadan) : May I explain to the Honourable the Mover of this amendment that in the Select Committee this very clause was under discussion and some members of the Select Committee were under the same misapprehension under which some Honourable Members of this House seem to labour now. They also said that they were of opinion that this proviso, "that nothing herein contained shall require the court to adjourn" is more or less a direction to the court not to adjourn otherwise than under the provisions of this clause. Being under that misapprehension, we were anxious that, misapprehension though it was, it should be removed, and so we added an explanation ; the explanation being, "Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section

[Sir Hari Singh Gour.]

344''. So, we made it abundantly clear that if anybody is under a misapprehension of what the court is not required to do, it shall not do it is not the object of the legislature. All that it means is that the Court is not compellable to do a certain thing, leaving the Court the option which it does possess under section 344. Honourable members of that Committee have, therefore, overcome that misapprehension which some Honourable members in the House also feel as to the ambiguous expression used in the proviso. In view of this explanation, I think there is hardly any room for ambiguity in the matter.

Mr. S. G. Jog : In view of the explanation given by the Honourable the Law Member and also by the Leader of the Nationalist Party, I beg leave to withdraw the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That leave be granted to the Honourable Member to withdraw his amendment.”

The amendment was, by leave of the Assembly, withdrawn.

Mr. T. N. Ramakrishna Reddi : Sir, I beg to move :

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed subsection (8), all the words and commas occurring after the words ‘ subsequent intimation from the same party ’ be omitted and a full stop be placed after the word ‘ party ’.”

The object of this amendment is to enable the other accused in any case in which there are more than one accused to make an application for transfer from the court from which they are tried. This amendment also covers the doubt expressed by my Honourable friend Mr. Lahiri Chaudhury. I do not know if my Honourable friend is a lawyer and even if he is not one, it is clear, even from a common sense point of view that this amendment is absolutely necessary. As I already said, it is a fundamental principle of law that one accused does not represent the interest of the other accused. So, this privilege that is given to one accused should be given to the other accused as well in that particular case. There are several cases where the interests of the accused differ. For instance, persons may be charged with the offence of committing theft and also receiving stolen property, or they may be charged for manufacturing coins or for using them. There are ever so many cases covered by section 239 of the Code of Criminal Procedure by which different sets of people could be brought under the same trial. If the interest of one accused is to apply for adjournment at a particular time, it may not be to the interest of the other accused to apply for a transfer at the same time. Or occasions might arise when after one application by one of the accused, it is absolutely necessary for the other accused to put in an application for transfer of the case. Or else the effect will be like this. There will be a regular race among the accused to take advantage of one compulsory adjournment and to apply for transfer. The other day, my Honourable and learned friend Sardar Sant Singh quoted instances where in rioting cases a number of accused, or sets of accused as it were, could be brought to court and where the interest of one accused would be contradictory to the interest of the other accused.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : In what way ?

Mr. T. N. Ramakrishna Reddi : In that case, one accused might have to prove the case against the other, or on the other hand one set of accused might have to prove the case of the prosecution, and so on.

Mr. B. R. Puri : If there are two rival factions, one joint trial will be illegal.

Mr. T. N. Ramakrishna Reddi : There may not be two defences, but as the case proceeds, the interest of the accused might become divergent. I think my Honourable friend, Mr. Puri, as the leader of the Lahore Bar, must have come in contact with many instances where the defence of one accused differs from that of the other accused. For all this it is quite essential that the other accused also should be given the same privilege as is given to the accused who applies for the adjournment first.

1 P.M.

Again, Sir, supposing,—it is a very rare case but we have to provide against rare cases also,—supposing the magistrate has got a grudge against one of the accused, and either he or the police induces one of the accused to file an application for transfer on insufficient grounds, knowing very well that he could not get any transfer from that Court. Of course as he has been induced to file an application for transfer the magistrate will not be prejudiced against him, but all the other accused are absolutely in his hands. Thus proviso prevents the other accused from making applications for transfer as they are absolutely in the hands of the magistrate and he can wreak his vengeance against the other accused who will be absolutely without any remedy at all.

Then there are other cases also. Supposing one accused genuinely feels a grievance against the magistrate and he files an application, and when he goes to the High Court the leaders of the Bar may advise him not to file an application for transfer before the High Court as the grounds alleged by him may not be enough to get him a transfer. Then the poor client has to accept the advice given by the most eminent lawyers and he goes back to be tried by the same magistrate. Then the other accused also have to suffer because this man who went there first went on insufficient grounds and exhausted the privilege of one compulsory adjournment.

Then take another case. Suppose one accused has got very sufficient grounds and he goes to the High Court and files an application. Then at the time of the hearing, because he is unable to pay the counsel's fees or for some other reason, he makes no appearance and the case goes by default. In this case also though there are enough grounds in his favour, because his case goes by default, he has to go back to be tried by the same magistrate and the other accused are deprived of the right to apply for adjournment. Numerous cases like these often arise, and so in order to give to the other accused the right which one accused has got, this amendment is absolutely necessary. Government have succeeded in defeating all other reasonable amendments and they have achieved their object of putting an end to all these frivolous applications by giving only one compulsory adjournment, by making the accused execute bonds for heavy amounts in the court, and by empowering the High Court to impose heavy compensation if he goes there and fails because of insufficient grounds. By all these provisions the privilege which has been given to one accused has been made absolutely nugatory, and this would effectually prevent any sort of application being

[Mr. T. N. Ramakrishna Reddi.]

made for transfer. Having succeeded in all these provisions Government must now accept this reasonable amendment because in accepting this they will be doing bare justice to the accused in the case. So I beg to move this amendment for the consideration of the House.

Mr. Lalchand Navalrai : Sir, I rise to support this amendment and I have got one ground which I will put to the Law Member and he will probably find it difficult to answer it. That point is this. This amendment aims at giving an opportunity or right to more than one accused to apply for adjournment. If that is refused, a difficulty arises which can be illustrated thus : Let us take it that there are two accused in a case. Both of them are aggrieved at the hands of the magistrate or the Court in which the case is being tried. They propose that one of them should apply for adjournment. That man files an application and gets an adjournment of about ten days. Then, within those ten days, Government succeed in making him an approver and he becomes a witness instead of an accused. Then what happens ? The accused who applied for an adjournment and got it comes out of the dock and goes into the witness-box. Now, may I ask, whether the other accused can compel the magistrate to give him an adjournment for applying to the High Court for transfer ? If not, a clear injustice will be done. I submit that in the enthusiasm or rather in the anxiety to curtail the rights of the accused and giving undue listening to the complaints of the Courts that their hands have been tied down by compulsory adjournments when they are asked for, every reasonable amendment or reasonable provision that is sought to be made is being rejected. I submit that this is a sorry state of affairs which the House should take notice of, and give an opportunity to the other accused also for making applications.

Mr. B. R. Puri : Sir, I am afraid that the apprehension of my Honourable friend who moved this amendment and also that of the Honourable Member who followed him as regards the danger which is likely to accrue from the law as proposed by the Select Committee is somewhat illusory. The point to which we have to apply our mind in connection with this amendment is that where there is more than one accused involved in a criminal trial, whether the right of the other accused is likely to be prejudiced in the event of one accused having applied unsuccessfully for the transfer of the case. The position taken up by the Honourable the Mover of this amendment is that it would be highly unfair and prejudicial to the interests of the other co-accused if one accused were to rush to the High Court with an application which he is not able to substantiate and if thereby the other accused persons who may have hereafter perfectly good grounds for asking for transfer are, on account of that first application being rejected, debarred from pursuing that course. In the first place, Sir, it is absolutely essential for me to remind my Honourable friends that what they seem to ignore and forget is that these provisions in no way affect the right of the parties or of the accused to apply for the transfer of the case. The only thing which they are not able to secure, by virtue of somebody else having secured an adjournment, is that subsequent adjournments shall be denied to them; and that too not necessarily.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-

Mr. B. R. Puri : The right is that each and every accused person has got a right irrespective of whether there have been ten or twenty petitions for adjournment or for transfers before, he has got independently a right to go and seek, on his motion, on the strength of his own case, to go and move the High Court for the transfer of the case. That right is not affected by anything contained in the previous law or in the present law....

Mr. T. N. Ramakrishna Reddi : Then why should you not take away the whole of this section altogether ?

Mr. B. R. Puri : I am coming to it. The question is whether the principle which my Honourable friend is advocating is really sound. After all persons suffer by bad association outside the court just as much as inside the court. If I am placed unfortunately in a position where I am tacked on to half a dozen other accused persons, under the existing law not only in this country but in every civilised country, I take it, each one of them stands to gain or lose by the acts of their companions. There are advantages and disadvantages in this comradeship. I shall give an illustration in support of what I have said. We are quite familiar with Sessions trials where more than one accused person are being tried. If one accused person leads defence evidence in spite of the protest and entreaties of the other accused that the production or leading of evidence might prove fatal to the whole case, but yet if one of them persists in leading evidence for the defence, that will not only affect that man who is leading the evidence, but the whole lot of the accused stand to suffer, because they shall have lost the right of reply which otherwise was theirs if no defence evidence was led. This is an illustration of the disadvantage which accrues when there are a number of accused. I shall now give an illustration where the accused stand to gain. If there is more than one accused being tried together and if on the same facts one accused is acquitted, it would strengthen the case immensely in favour of the other accused, who may be convicted, before higher court ; they can very reasonably urge that on the self same evidence one man having been acquitted, there does not seem any reason or just ground why on the same evidence the others should not be let off.

Mr. Lalchand Navalrai : If the interests and facts are the same.

Mr. B. R. Puri : I grant ; if the interests and facts are the same no doubt ; and therefore I was careful to say if on the same evidence one man was let off and another was convicted, it would be a distinct advantage to the convicted man when he appeals against his conviction.....

Mr. T. N. Ramakrishna Reddi : I want to know how this illustration is relevant.

Mr. B. R. Puri : I am only endeavouring to show that this is not a solitary isolated provision of law and that if you follow the principle which underlies, you will get illustrations in several other provisions of the Code. I am giving you an instance so that you may be able to see for yourself what is the underlying principle, which is that where there are more than one accused, each accused stands to gain or lose by the acts of the others ; and that if you desire to ignore this principle, you shall consistently have to ask for the repeal of several other provisions of the Code.

Mr. T. N. Ramakrishna Reddi : Is there any section in the Code to prove his illustrations ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member does not seem to realise that the Honourable Member Mr. Puri is replying to the arguments which Mr. Lalchand Navalrai advanced in favour of the amendment.

Mr. Lalchand Navalrai : But which have not yet been met.

Mr. B. R. Puri : Now, there is no good for my Honourable friend to keep reminding the House time and again that where there are several accused persons, their interests may clash ; they may—I am quite willing to concede that. Whoever advanced the argument that when there is multiplicity of accused persons their interests must always coincide with each other ? But the mischief for the purposes of the present provision would only creep in not where the interests clash but where the interests of one or more accused persons coincide with the interests of the prosecution. In other words, where the prosecution and some one amongst the accused are colluding with each other ; then it might possibly be urged that because one of the accused persons has been prompted or induced by the prosecution to go and put in a transfer petition in order to prejudice and harm the prospective rights of the other accused. Let us consider such a case. In the first place, how many cases in practice—I will put it to the good sense of my Honourable friend—can he cite where such has been the case, where the interests of the prosecution and that of some one of the accused have coincided ? On the other hand, the mischief which this provision is intended to prevent is that where there are ten or twenty accused persons, if each one of them is given independently the right of asking for adjournment on the strength of their independent cases, there might be ten or twenty adjournments of a compulsory character or as many as there are accused. The result would be that the thing would be carried to an interminable limit. My learned friend therefore is thinking of cases more or less of a hypothetical character which in practice would be very seldom met. Side by side we have also got to remember that when in a case like this an accused person goes before the High Court, with the deliberate intention of injuring the prospects of the other accused, and if the High Court ultimately rejects his petition he shall have to pay a heavy amount of fine or compensation, who is going to find it ? In any case the other accused also would be represented in the High Court ; the petition will not be disposed of *ex parte* ; the other accused will have a say in the matter and it will be open to them to urge before the High Court that the petition was collusive. In practice therefore one does not stand to suffer in any way ; and I therefore submit that this apprehension which has prompted my learned friend to move this amendment is nothing but illusory.

The Honourable Sir Brojendra Mitter : Sir, I oppose the amendment. I will answer my Honourable and learned friend, Mr. Lalchand Navalrai, first. There are two accused, both having a grievance against the magistrate ; both want a transfer. As regards one, the prosecution maliciously makes him or intends to make him an approver and makes him apply for a compulsory adjournment so as to deprive the co-

accused of a right of similar application. The obvious answer is, if both have a grievance against the magistrate, why can't they file a joint application ?

Mr. Lalchand Navalrai : If one applies it is sufficient ; why should the other man pay ?

The Honourable Sir Brojendra Mitter : If a joint application is made, when one drops out, the other remains.

Mr. Lalchand Navalrai : In the first place, I do not think a joint application can be made.

The Honourable Sir Brojendra Mitter : Sir, it has been consistently ignored in this debate that when a person wants to apply for a transfer, the relevant considerations are, either the bias of the magistrate, or his incapacity or the convenience of the parties. These are the three main heads of grounds for transfer. It is conceivable that the magistrate is a witness in the case, or he has a personal interest in the case. That would be a case of incapacity. These are the three broad grounds on which applications for transfers are made. Whether the several accused have got a common interest or a common defence is not such a material factor in an application for transfer as the three I have just now mentioned. When the first application is made, say, on the ground of bias or incapacity, there is a compulsory adjournment. All the accused get an opportunity of establishing before the High Court that the magistrate is biased or he has a special interest or he is under some sort of disability or incapacity to try that particular case. Every one gets an opportunity to have his say, whether the application is made by A, B or C. There will be no difficulty in practice in a proper case for transfer. In frivolous cases, no doubt, the accused will be somewhat handicapped under the present measure, and they will not have that freedom or I should rather say license which they have under the existing law.

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : But if no application is made ?

The Honourable Sir Brojendra Mitter : It is to curb that license that this measure has been brought. Sir, if this amendment is passed, what is the consequence ? The consequence is there may be as many compulsory adjournments as there are accused. If there are 25 accused, there may be 25 compulsory adjournments apart from the discretionary adjournments which are always there. The amendment defeats the whole purpose of the Bill, and I oppose it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That in part (c) of clause 2 of the Bill, in the proviso to the proposed sub-section (8), all the words and commas occurring after the words ‘ subsequent intimation from the same party ’ be omitted and a full stop be placed after the word ‘ party ’.”

The motion was negatived.

[Mr. President (The Honourable Sir Ibrahim Rahimtoola) called Mr. Jog to move his amendment, but Mr. Jog was not in his place.]

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I want to know whether any Honourable Member wishes to move any of the amendments still remaining to be disposed of.

Mr. Lalchand Navalrai : Sir, in view of the fact that two of my previous similar amendments have been lost, I do not want to press my amendment No. 18.*

For the reasons I have already given, Sir, I don't move my amendment No. 20† also.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Mr. H. G. Haig : Sir, I rise to move :

“ That the Bill, as amended, be passed.”

We have, I think, in this House discussed very fully the various points that arise in this piece of legislation. Though we have not been able to accept the amendments that have been moved, the House, I am sure, will remember that a number of changes, and changes of great importance, were made in the Select Committee, and they also considered all the various points raised in the amendments. I am confident that by passing this Bill as amended, the House will be placing on the Statute-book a valuable and sorely needed improvement in our Criminal Procedure. Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

“ That the Bill, as amended, be passed.”

(At this stage Mr. D. K. Lahiri Chaudhury rose to speak.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Do you wish to speak ?

Mr. D. K. Lahiri Chaudhury : Yes, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The House will now adjourn till 2-40.

The Assembly then adjourned for Lunch till Twenty Minutes to Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. Lalchand Navalrai : I feel bound to oppose this Bill at this third reading, not merely for opposition sake, but because I do really feel that this

*“ That in part (e) of clause 2 of the Bill, in the proposed sub-section (10), the words and commas ‘ upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court ’, be omitted.”

†“ That in part (e) of clause 2 of the Bill, in the proposed sub-section (10), after the words ‘ to be fixed by the Court ’ the words ‘ not less than fifteen days ’ be inserted.”

Bill, as it is now before the House, is very harsh for the people. My justification for opposing the Bill is that all reasonable suggestions that have been made for improving it after it has emerged from the Select Committee have not been accepted. (*An Honourable Member* : "Not even one.") I do not propose to repeat the arguments that I have placed before the House from time to time with regard to this Bill. I submit that this measure is not a new measure. Section 526 was fully considered in 1923 when the legislation with regard to it was enacted. We know that before 1923 there were certain inconveniences and abuses that had to be corrected. It was not that in 1923 the Legislature did not consider the matter fully. It was fully considered, not by one Committee but by two Committees ; then it came before this House and then it went to the Council of State. All of them agreed that the accused or the parties were suffering very much at the hands of the Courts and magistrates who autocratically refused their reasonable requests. It was from that point of view after considering the whole thing carefully they came to the conclusion that the accused should be given the unrestricted right of applying for an adjournment in order to get a transfer at the hands of the High Court, and the right to apply for an adjournment as many times as the aggrieved party feels necessary. That was not enacted as a matter of course ; that was because the magistrates and the courts had previously shown by their conduct that they were not complying with the reasonable requests of the accused or the parties. They believed only in expediency ; they rushed through cases, no matter whether justice was done or not. They wanted to dispose of as many cases as possible. The higher officers were executive officers and they were sure to applaud them for their quick disposal ; otherwise their promotions were likely to be in danger. Therefore, the Legislature thought that these magistrates and courts had done harm to the people and the remedy was only to give as many opportunities as possible to the accused or the complainant for applying for an adjournment of the case. However, they attached a penalty, and I think it was a right penalty, that if the transfer applications were frivolous, or vexatious, or false, the party concerned had to be mulcted in costs. That had the effect of two punishments, one, in his own costs, and the other, in the costs of the other party. This went on very well. Nobody ever thought that this practice was such as should be stopped or that the rights of the accused should be curtailed. I myself have experience of magistrates. Whenever you go and ask them for an adjournment, they would give it much against their will, as their hands were tied down. They thought that one day they must bring pressure on the executive to bring in a Bill to undo all that was granted in 1923. We see the effect of it now. In this House at present the executive could have more votes, but it is unfortunate that the rights of the accused are going to be curtailed and the hands of the magistrates are going to be unnecessarily strengthened. When this Bill was being sent to the Select Committee, the case of the accused was fully placed before the House by my Honourable friend Mr. Puri, but since it has emerged from the Select Committee,—I was not a member of it myself—I should think, from the manner in which the Bill has been treated in this House, that it had been made a subject of only a compromise which is now influencing it to be enacted into law. The country will know when this Bill is passed that it was not enacted on its merits, but it was passed because those of the popular side who support it thought that they would lose even the one chance of getting a compulsory adjournment, if they did not accept the compromise. There is however not much grace

[Mr. Lalechand Navalrai.]

in the compromise—it is like giving with one hand and taking it away with the other.

The Bill increases the amount of penalty which the High Court can impose. From this side of the House, reasons have been given, illustrations have been put forth to show that whatever the other side is doing is not based on any sound reasons. Those illustrations have been given to the House, and I shall presently show that they have not been refuted ; but because the Bill came in by way of a compromise made in the Select Committee the attitude is to persist in it. With regard to this compensation the reason given was that it was not possible to always assess the costs properly. Is this reasonable ? The argument was put forward that the Legal Remembrancer has got a fixed salary and his fees cannot be assessed. It was urged on this side that that was not an insuperable difficulty and that his fees can be fixed for a particular transfer application. No reply has come to that. Therefore I submit that this enactment as regards compensation is not a right one. On the contrary you are leaving it in the hands of the courts only to increase the penalty for which there is no necessity. Then, Sir, with regard to the compulsory adjournment, I think in my humble opinion it is really curtailing the rights of the accused person if you restrict him to one compulsory adjournment. There is some force in the argument that the accused may at their own choice deter the magistrate from going on with his case by making many applications, but we have given certain substantial reasons. It does not always happen that people will lose their head and go on making applications after applications and exposing themselves to the penalty by the High Court for frivolous applications. Consider the other side also, that you are actually curtailing the right which the people have enjoyed since 1923. You are with one stroke only giving them one adjournment. That may be all right but I submit that the conditions that you attach to this one compulsory adjournment nullifies the concession that you have given. There is a condition that when he applies even for the first time he shall have to execute a bond and say that if he is not applying for a transfer he shall have to pay Rs. 200 as penalty. I submit that this is very hard, especially when the accused has had the opportunity till now of asking the Court to postpone the case for any number of times. You bind him now with a technicality which can be turned to use by the magistrate in any manner he likes. Again there is another anomaly, namely, that the magistrate shall fix the time within which you will have to make the application. That is very hard indeed. A reasonable time should be given to him to make that application and I do not see any reason why the Court should fix the exact time for it. Any way I find that this provision put in the Bill is inconsistent and anomalous to the latter portion of the provision which prescribes that the magistrate in giving an opportunity for making an application for transfer shall give a fixed period of time such as within which the application could be made and order obtained. Hardships as these entitle the Bill to be thrown out even at this stage.

Coming to the question of the several accused, I am sorry to say that neither my Honourable and reputed friend from Lahore nor the Law Member were able to give a satisfactory reply to the illustration I placed before the House to show that there is a difficulty in not giving adjournment to

each of the accused separately. I will repeat it. Suppose there is a joint trial and there are two accused, both are aggrieved at the hands of the magistrate. One of those accused gets a compulsory adjournment from the magistrate. Thereafter the Crown thinks that he is a person who can be turned into a witness ; this is done and then there remains only one accused before the court, the other having come out from the dock to go to the box. Now the remaining accused finds it necessary that he should apply for an adjournment. The magistrate will say 'No. Only one adjournment had been ordained and that has been given. You must face the difficulty now, and see for yourself that in such case a fair and impartial trial could not be obtained'. Now what was the reply that the Honourable Mr. Puri gave. He said that it was only a hypothetical case. I am surprised that such an able and experienced lawyer should say that. Don't we know in actual practice that there are cases like that, that some accused are turned into approvers ? What reply did the Law Member give ? I do not think there was any reply more satisfactory than that given by my friend Mr. Puri. I am submitting that the whole Bill is full of flaws and it is not right that we should pass it in its present form. Every one who knows the procedure of the courts and the manner in which the courts are carrying on will certainly say that this Bill is likely to be abused by the courts. This Bill as it encroaches on the rights not only of one community, one sect or one race, but of the whole people of India, male and female, if you allow it to be made into law, you will only embolden the Treasury Benches to bring such measures more and more to affect the rights of the public. (*An Honourable Member* : "Wait, the Ordinance Bill is coming.")

3 P.M.

Well, I know the Ordinance Bill is coming ; and I think it is for the House to be strong. On this Bill, however, a position has been created in which only pleaders and counsel Members of the House are feeling much interested—of course the opposite Government Benches are strong—and it will, therefore, be so much better if non-lawyers try to follow the position as to what really are the difficulties of the parties. I expect then that those other Honourable Members who are not lawyers will also get up and even at this third stage oppose the Bill and throw it out. The Bill as a whole is very bad and oppressive and I oppose it.

Mr. F. E. James (Madras : European) : Sir, the Member, who has just sat down, made the most disrespectful allegation that this House has not considered this Bill on its merits. As a Member of the House and also as a member of the Select Committee, I desire to protest against that statement. Sir, this Bill has received every consideration at the hands of this House ; and at this last stage I desire to congratulate the Honourable the Home Member upon having piloted this Bill to this point, and I would ask him not to regard this so much as an achievement, but as the beginning of a long process of further reforms. (Laughter.) (*A voice* : "In the way of more Ordinances !") Sir, I am glad to see that the next item on the Government's programme is to be received with such geniality ; I hope that will be continued. (*An Honourable Member* : "Wait and see !") Sir, I do want to impress upon the Home Member that there is a very strong feeling in support of the contention throughout the country that there are delays, in the course of justice, both in respect of criminal and civil procedure, that are a real blot on the administration of justice in this country. I believe, Sir, that this Bill will provide a very valuable beginning in the right direction. But I do most sincerely trust that the Home

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Member, though I know he has many other pre-occupations, will realize that this is only a beginning. I should like to look forward to a long series of Bills which he will bring forward designed to speed up the execution of justice not only in criminal procedure but also in civil procedure.

Mr. Lalchand Navalrai : Try all people summarily !

Mr. F. E. James : There may be some people who do deserve summary execution ! Sir, the present administration of this country which is now drawing to its close, brought to India impartiality in the administration of justice and speediness of execution. For various reasons this impartiality has been weakened of recent years, and, also, for various reasons, that speed of execution which is a feature of the British administration of justice has also been slowed up. I therefore suggest to the Honourable the Home Member that he could put his hand to no greater task than that of remedying the defects in the administration of justice in this country in the direction of removing many of the great obstacles in the way of speedy trials.

Mr. Lalchand Navalrai : The Honourable Member might press for the separation of the judicial from the executive functions, in that case.

Mr. D. K. Lahiri Chaudhury : Sir, following the previous speaker, I must say that he was not speaking, as I also do not, from the lawyer's point of view. But although one may not have the capacity and standing of a lawyer, I think in this House whenever any measure of legislation is moved, every Member has got the right to express his individual views on the merits of the measure and, from that point of view, I must not lose my right at this stage to make such observations as I think to be necessary on this Bill.

Firstly, with regard to the sum which has been put here, "not exceeding Rs. 250", that amount was mentioned by the Honourable the Home Member as the minimum security which they could impose. (*An Honourable Member :* "Maximum.") I stand corrected, that is the maximum sum. But may I ask the Honourable Member whether any attention had been paid to the general *per capita* income of an Indian when a sum of Rs. 250 is not a minimum sum but may be the very maximum sum within the reach of those who may be in the dock ? When you are moving legislation, you must not move legislation from one point of view (*Mr. S. C. Mitra :* "The rich man's point of view") ; and it is really the fact that the Home Member certainly might have considered whether this Bill should not only deal with those people who can easily afford to deposit Rs. 250 but with those people who cannot afford to pay that sum.

The Honourable Sir Brojendra Mitter : It is not a deposit, but a personal security.

Mr. D. K. Lahiri Chaudhury : And this amount of personal security, I think, will be very difficult to supply ? I think the Honourable the Law Member will agree with that ?

The Honourable Sir Brojendra Mitter : He need not forfeit it. If he makes his application, then the bond is *ipso facto* cancelled.

Mr. D. K. Lahiri Chaudhury : Take, for instance, the case of a man who has deposited this money.

The Honourable Sir Brojendra Mitter : Not “ deposited ” ; he furnishes security.

Mr. D. K. Lahiri Chaudhury : Supposing, after submitting the bond or security, his legal advisers advise him not to move the higher Court on the ground that the case is very weak. In that particular case, that money is forfeited. What is the provision for that ; and if he loses that right in that particular case of moving an adjournment motion to the High Court.....

The Honourable Sir Brojendra Mitter : What we suggested was that he should take his advice before he makes his application and not take his advice after making his application.

Mr. D. K. Lahiri Chaudhury : Exactly ; if I may just point out, if a security of Rs. 250 is demanded, then supposing the legal advisers say that the case is not so strong, in that case the money is forfeited, and he is a loser. Does he not admit that ? And, again, where is the time to consult the legal authorities when the case sits day to day.

The Honourable Sir Brojendra Mitter : I do not follow the Honourable Member's reasoning.

Mr. D. K. Lahiri Chaudhury : What I want to point out is this, that this Bill, as drafted now, is not only detrimental to the interests of the people but to those of the Government as well. They also generally lose income over this.

Mr. Lalchand Navalrai : And Government servants also will suffer.

Mr. D. K. Lahiri Chaudhury : Now, the next point I want to emphasize is about the right of moving an adjournment. I did not find it cleared up, and nobody in this House could convince me. Once an adjournment motion is moved, the second accused person loses his right of moving the same motion on any other ground. This has been very rightly put by my Honourable friend, Mr. Lalchand Navalrai, and that has not been cleared up by Mr. Puri. So far as I know, when the Bill was tabled, there was a very strong sense in this House that the right of the accused should be preserved as far as practicable.

Now, the Bill, as amended by the Select Committee, does not make any provision for those who are really accused. Sir, in the case of joint trials, if one person has moved for an adjournment on a particular ground, it will be entirely in the discretion of the magistrate to allow the other accused persons to move for adjournment. What we had thought, Sir, was that this Bill was to preserve the rights of the accused persons. But I see that in this amended Bill this provision has not been made. That is a fundamental point on which I differ from other Honourable Members who have supported this Bill. Then, Sir, this Bill is going to be placed on the Statute-book for good. So, this Bill goes against the fundamental principle of jurisprudence and the cart has been placed before the horse. The law of jurisprudence is that no man is guilty unless his guilt has been proved in a Court of law. This Bill, generally speaking, surmises first that the man who is going to be tried is guilty and he has to submit a security or bond of Rs. 250. It is, really speaking, a very bad precedent and ought not to be allowed by this House. Sir, I oppose this Bill mainly for the reason that the Bill which was first introduced in this House could not be sufficiently improved in the Select Committee. I also differ from my Honourable friend, Mr. James, when

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he said that sufficient consideration has already been given to this Bill. I do admit that some consideration has been given to it but it has not been sufficient. I maintain, Sir, that there ought to be some provision in the Bill for the accused to move for the adjournment. It must not be left to the discretion of the magistrate alone, however responsible he may be. At least public opinion sometimes might go against him. Sir, I oppose the Bill.

Dr. F. X. DeSouza (Nominated Non-Official) : Sir, I should like to claim the indulgence of the House for a few minutes before the House is called upon to vote on the third reading of this Bill. I think the magistracy throughout the country will heave a sigh of relief when this little Bill is placed on the Statute-book. The principle underlying this legislation, as we all know, is the very salutary principle of English jurisprudence, that not only will all duly constituted tribunals administer impartial justice to those who are brought before them, but that at any stage of the trial there should not be in the mind of the accused person a reasonable ground for apprehension that he will not receive impartial justice. In England application for transfer of criminal cases can only be made before the trial commences on certain broad grounds stated by the Honourable the Law Member. But after the trial has once commenced, so far as I am aware, the English law does not permit the transfer of criminal cases. In India, however, this principle has been carried to what I may call quixotic lengths. I remember trying a case when I was a young magistrate many years ago. It was a case of theft of goods worth about Rs. 50 from the provision stores of a well-known firm, Messrs. Treacher and Company who are now defunct. This matter went up in revision before the Honourable High Court and one of the Honourable Judges refused to hear the application on the ground forsooth that he held two shares of the face value of Rs. 100 each in that concern. Well, Sir, that shows the extreme limits to which Judges in India are accustomed to carry this principle. But the legislation of 1923 went much further and carried the principle to what I consider absurd limits. What, Sir, was the effect of the legislation of 1923-? At any stage of the trial it was open to an accused person on the most frivolous pretext to demand an adjournment as a matter of right and to guillotine the trial. As the Honourable Mr. Justice Lort-Williams puts it, its effects on the administration of criminal justice were disastrous. In the case of an accused person it put power into his hands to postpone his conviction as long as he thought fit and in the case of a vindictive complainant it put power in his hands to postpone the acquittal of an accused person till such time as he thought fit. Sir, this state of things is bound to bring the administration of justice into contempt. But this legislation has even a more undesirable feature. It purported to inspire continued confidence in his tribunal in the mind of the accused person. But at what price? I venture to think that the price paid was far too high. It put into the hands of the accused person and his advocate a weapon which, I think, and I speak with deliberation, tended to undermine the independence of the magistracy. I may be asked in what way? I will explain that to the House. The accused person or his advocate could with impunity make a statement, however libellous, against the magistrate concerned and we all know that if you fling lot of mud at anybody some of

it is bound to stick. I am not speaking of hypothetical cases but I am speaking from the kinds of complaints that have been made to me when I was an authority in the Province of Sind. I will tell the Assembly the nature of complaints that were addressed to me and I have no reason to suspect that these complaints were not true. When a leader of the High Court Bar appeared before a subordinate magistrate, there was always an instinctive fear in the mind of the magistrate. He knew that the learned leader of the Bar had the ear of those in authority and what is more, under the present conditions he also knew that the leadership of the Bar is the stepping stone to the seats of the mighty. The Honourable the Home Member told us that some applications were made to the High Courts in which the colour of the magistrates' tie and the expression of his face were urged as grounds for a transfer. I have been told of cases where the intonation of the learned Advocate's voice and the pose of his body when he addressed the Court inspired misgiving in the minds of the magistrates as to what was in store for them if they incurred the displeasure of the Advocate. After all the poor magistrates are human beings and they have responsible duties to perform ; and it is not likely that they would be able to administer justice impartially and dispassionately when their minds are perturbed. I therefore welcome this legislation with all my heart because I think in future no frivolous applications, no libellous observations in such applications against the character of the magistrate can be made with impunity.

One word more and I have done. In scanning the names of the members of the Committee who drafted this legislation of 1923, I find it was composed mostly of very eminent lawyers ; but of those who constituted the official element, there were only exalted officials of the Government of India who had left their magisterial days far behind in the dim and distant past. That, Sir, I think was partly the reason why the hardship and difficulties of the magistrates were not seriously considered in the legislation of 1923. May I suggest to the Honourable the Home Member or whoever is in charge of the selection of members to these Committees that whenever legislation of this kind comes up in future, he may draft one or more Members of this Assembly who are in actual harness as magistrates. Provincial Governments depute officials to this House from among whom it should not be difficult to select members who will be glad to place their experience at the disposal of the Select Committees. With these observations, I ask this House to pass the Bill. (Applause.)

Sir Hari Singh Gour : My Honourable friends on the Opposition Benches have perhaps alluded to this Bill beyond its ordinary deserts. As one who served on the Select Committee and has appended his signature to the majority report, I feel constrained to explain to Honourable Members my own position why and for what reason I, and those who agree with me, became participants in the further progress of this measure. Honourable Members behind me have complained that the Bill has emerged from the Select Committee without those important changes which they indicated and which have deprived the accused of those rights and privileges to which according to them they were entitled. I think Honourable Members will perhaps recall the history of this very important measure. The history of this measure goes back to the old Code of 1882 and in 1916 when Mr. Lowndes Committee passed the whole of the Code

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of Criminal Procedure in review they made some important suggestions which culminated in the enactment of the measure in 1923 including section 526 as it is to-day. Since then nearly ten years have passed and the Honourable the Home Member informed this House on the day he asked for confidence of this House for going to the Select Committee with this Bill, that this section had become a ripe source of causing interminable delays on the part of the accused who for one pretext or another asked for adjournment ostensibly for the purpose of applying to the High Court for the transfer of the case on the ground that they had lost confidence in the magistrate, but having obtained that transfer they thought better of it and appeared at the next hearing only to renew by another application of a like character with the like intention and a like result. There was no limit to such applications, the result being that while the accused were threatening to file applications before the High Court, the High Court never received any application and the course of justice was delayed. That is the gravamen of the Honourable the Home Member's complaint and he therefore asked this House that some limit should be placed on the power of the accused to delay proceedings by asking for frequent adjournments which the magistrate had no power to refuse. Honourable Members will, I think, agree that it is in the interest of justice that the accused should not be armed with power to ask for adjournments which they have no intention to utilise in putting application for transfer and thus interminably prolong the proceedings, and thus defeat justice. I do not say that justice is defeated only by their conviction or by their acquittal, because section 526 applies equally to the complainant and to the accused, though in point of practice it is a right which is frequently exercised by the accused. Now, Honourable Members had sent this Bill to the Select Committee and therefore, they, *prima facie*, have accepted the principle, the principle being that a reasonable fetter should be placed upon the frivolous and *mala fide* applications on the part of the accused.

The question, therefore, is whether we have gone beyond the mandate we received from this House to amend the provisions of the section beyond the immediate necessity of the case. Sir, I have been listening to the numerous speeches delivered on the floor of this House by Honourable Members, as also to the several amendments moved by Members of the Opposition Groups. If I have refrained from speaking so far, it has been because I was anxious to hear all that they had to say and to give them a fair chance of enforcing their views upon Honourable Members of this House. That stage has now passed and we are, therefore, now to review the situation as we find it before the Bill is translated into an Act of the Central Legislature so far as this House is concerned.

I submit, Sir, that I am not one of those who are enamoured of any provisions inserted in the Code of Criminal Procedure which would unreasonably fetter the right of the accused, and Honourable Members know it. And when this House with one voice committed this Bill to Select Committee, what were the members of the Select Committee to do? It was their plain duty to carry out the behest of this Honourable House. And the question, therefore, that now arises is whether the members of the Select Committee have been guilty of a dereliction of

duty by placing improper fetters upon the right of the accused or whether they have in any way unduly curtailed the rights and privileges of the accused to the detriment of justice. That, I submit, is the short question which this House has now to consider.

Sir, boiling down the numerous arguments and amendments to which this House has been treated I find that there are really three objections that have been taken to this Bill. Let me categorise them. The first one is that while the accused had heretofore and now unlimited rights of obtaining compulsory adjournments this right has been curtailed by limiting adjournments to a single one. Now I ask Honourable Members, if the Select Committee were to allow unlimited adjournments, would they have been carrying out the purpose for which this Bill was sent to the Select Committee? Was it not a main principle of the Bill that a curb should be placed on unlimited adjournments? Therefore we would have been overruling the combined wisdom of this House if we had come back to this House and asked it once more to say that the accused had unlimited rights of adjournments. That, I submit, would have been a position to which no self-respecting Select Committee would commit itself. That is the first point that Honourable Members must bear in mind. But having said that, I do not for one moment underrate the objections that have been raised by Honourable Members and these objections were raised in the Select Committee that whether we were not unduly curtailing the rights of the accused. I myself felt that an accused may have a bad case for transfer on the first occasion but that he may have at a later stage a very good case for transfer. Emboldened by his first success in the High Court on the first occasion, the magistrate may say, "You have had your one bite, now I will have mine"; and the position of the accused would then be one of abject helplessness, so far as compulsory adjournments are concerned. That is no doubt an objection, but you have still to surmount the other objection. You have one objection against another objection. The other objection is, shall we give an unfettered right of adjournment to the accused? You have said we should not. Consequently, we were placed on the horns of a dilemma. You have said that we should place a fetter upon the right of adjournment and at the same time enact such a law as will give him a reasonable opportunity of obtaining adjournments. Now if we had this idea that the accused should have two adjournments instead of one, you would have all said that two are too few, because the argument that I have advanced, namely, that occasions may arise from time to time, does not limit the right of the accused to any single or any number of adjournments. The argument gives him a theoretical right of obtaining adjournments unlimited in number. But you have decided that he should not have the right of unlimited adjournments because it leads to abuse, and therefore we had to decide between those two extreme views. One was, no adjournment at all unless the case was proceeded with and concluded so far as the evidence for the prosecution was concerned; that was the view of the Treasury Bench. The other view was that the accused must have some right, not necessarily an unlimited right. Therefore we had to decide between these two conflicting views. We have done so and everything we have done or we could do is open to the same objection. If we had decided on three objections Honourable Members on this side would have said that three are too few. What I am now trying to convince the House is that placed as we were in

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the situation in which you had placed us we had to decide and had to make some limit and that limit has been fixed by the Select Committee. I do not say it is an ideal limit and I will deny it if anybody asserts that it is an ideal limit. But I say that in matters of limitation you cannot reason. There is what many would call an almost unconscious mental process. You say that 18 should be the age of majority. Can anybody justify the fixing of 18 as the age of majority and not 16 or 21 as it is in England? You have to place a limit and you have necessarily to balance by some unscrutable process of the mind that this seems to be right and you act accordingly. Therefore I submit that you cannot dissect and you cannot justify upon its own merits anything that you could have done in the Select Committee, and that is our vindication for giving the accused one compulsory right of adjournment.

Now comes the next point. Honourable Members say, you are exacting a bond from the accused before you give him the right. But you have yourself admitted when you sent the Bill to Select Committee that *mala fide*, frivolous and vexatious applications must be discouraged. Now tell me how I am going to discourage it. You have suggested no other means of discouraging it. The only means that occurred to us,—it may not be the best one but a better one has not occurred to any Honourable Member who has spoken on the floor of the House,—was that he must take a security or a bond for security not exceeding Rs. 200, and that too is not necessary. It is not compulsory or obligatory upon the magistrate. If he finds that the accused is absolutely *bona fide* and has a reasonable case, he might say “Very well; I will give you time and I do not want any bond for it”. That I submit is the next point upon which members on this side seem to feel somewhat strongly.

Then comes the third point, the question about the compensation by the High Court. Now the High Court had the power of awarding costs, and those costs are not limited. If a senior counsel appeared the cost might go up to anything between 510 and 1,530 rupees. We have limited the cost or compensation to the maximum sum of Rs. 250. We do not say that the High Court shall in all cases award costs; but following the principle laid down in section 250 of the Code of Criminal Procedure we have provided that in a case of proved vexation, in a case of frivolous application, the High Court may exercise the power and that power we have curtailed by limiting the maximum amount. Now, the next point upon which my friends feel very sore is the question about several accused being jointly tried. My friends must remember the facts. The occasion for compulsory adjournment may arise in respect of a single accused as I have pointed out because the provocative act may occur from time to time as it may occur where there are more than one accused jointly tried before the same magistrate. If therefore we have given one chance to each accused and in a rioting case as the Honourable Members know we have sometimes 30 or 40 or 50 accused, we could not with strict logic prevent transfers on 30 or 40 occasions because there are so many accused; and that action would contravene the principle which you have accepted, namely, that there

must be a limit upon applications for adjournments. Therefore I submit we were constrained to place a curb upon the power of adjournment and we could not possibly, whether there was one accused or a number of accused, give accused unlimited power of obtaining compulsory adjournments. That is our vindication for the clause that we have enacted in the Select Committee.

The last point that has been urged with a certain amount of vehemence by Honourable Members is that the whole of this section is a reactionary section. Reaction is a comparative term. We have been dealing with this section for the last 30 or 40 years and I do not for one moment suggest that we have reached the rule of perfection in enacting the measure which we have done. I wish to emphasise once more that as the old sections were found unsatisfactory, experience may show that this section also is not satisfactory ; but then there will be time to alter it. Better counsels will prevail, but for the time being, and we are only speaking for the time being, from the experience gained in the past this is all that we can do and we can go no further. If you find that this section is abused, that it has loopholes, that the rights and privileges of the accused have been unduly curtailed, we will be the first to complain to this House and ask for the amendment of the existing law. We are not the Medes and the Persians whose laws change not. Day after day we have the spectacle of dozens of amending Bills and repealing Bills in which Honourable Members on both sides are busy improving and revising the law, and if Honourable Members after experience gained are satisfied that the provisions of this Act have led to practical abuses and have frustrated justice I am quite sure that they will come forward here with facts and figures which would be found irresistible.

Mr. Lalchand Navalrai : I hope that will be soon enough.

Sir Hari Singh Gour : I should be very glad indeed if my friend, Mr. Lalchand Navalrai, comes up with facts and figures and I shall be one of those who will be his humble henchmen in the progress of his Bill for amending or repealing this law. Before I sit down I must turn to my friends the Honourable Mr. James and Dr. DeSouza. The Honourable Mr. James says that let this be the beginning of a long series of acts for the purpose of amending the civil and criminal procedure. He is new to this House. I have been in this House ever since its birth and let me remind him in this connection that the late Sir Alexander Muddiman, the then Home Member, had taken the advice of a committee known as the Civil Justice Committee of which my friend Dr. DeSouza was so distinguished a member. That committee suggested wholesale revision of the Code of Civil Procedure and the Small Causes Courts Act and we had a plethora, shall I say an epidemic of Bills pouring into this House from the fruitful armoury of the Home Department ; every second day or third day we had Sir Alexander Muddiman dangling before our eyes a new Bill recommended by the Civil Justice Committee and it was my painful duty to make a study of all these Bills or rather bunches of those Bills, and I advised this House to turn them all down ; and the House agreed with me till the courage of Sir Alexander Muddiman failed him and he closed up his Civil Justice Committee's Report and said ' Let us give this up for good and all '. So much for the advice which my friend, Mr. James

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has given this House. As for Dr. DeSouza, we know Dr. DeSouza. He has been for long a loyal servant of the Government and he adorns the benches by grace of the Government ; and I am not surprised that he takes that one sided view which the camel in the Arabian Nights took because he had only one eye and not two ; and therefore I shall not reply to him ; but I shall excuse him ; I have dealt with all the objections that have been raised, I think, against this Bill and I think the time has now come when we should get to business.

An Honourable Member : The question may now be put.

Mr. B. R. Puri : Sir, we practical lawyers know how difficult it is to build up your case. It is perhaps still more difficult to build up the case of your adversary, but God help the counsel who tries to build up the cases for both. That is a feat which is reserved for counsel of a very very rare ability. Within my own experience of 34 years I have not come across any. It is, to put in plain language, you can't please both the parties.

Sir, I have listened very carefully the speech delivered by my friend Sir Hari Singh Gour, and it reminds me—I hope he will not take the letter but the spirit—of the story that I am going to relate before the House. In an election petition a witness under stress of cross-examination had to admit that he had taken £25 as illegal gratification in order to give his vote for the liberal candidate, and it also transpired in the course of further cross-examination that he had accepted a similar amount from the opposite party in order to give his vote to the conservative candidate. The judge who was trying the case turned round to the witness and said, “ Well, my youngman, do you really mean that you took £25 from one party and another £25 also from the other party ? How do you reconcile your conduct, and in whose favour did you give the vote ? ”. “ My Lord.” He replied “ I gave the vote according to my conscience ”. (Laughter.) Now, Sir, we have heard the arguments of my Honourable friend Sir Hari Singh Gour, but may I ask him whether the Bill is good or bad according to his conscience for he has been trying to prove both.

In dealing with the main provisions of the Bill, one cannot conceal the fact, that the language of the existing Code is liable to abuse. There is no getting out of that fact. I go further and say that the language of the Bill was not only liable to abuse, but that in practice it had been abused. That being the case, as practical men, it is up to us to devise means either to put an end to that abuse in toto or at any rate to minimise or to reduce the amount of the mischief. When I looked at the original Bill, I found that while the previous section in the existing law had erred in one direction, the radical changes proposed in the new Bill erred in the opposite. Therefore, Sir, with the permission of the House, I placed what I believed to be a very reasonable proposition before the House, namely, that you should not restrict an accused person under your proposed law, asking an adjournment only before the actual commencement of the proceedings, because it would be a very hard provision indeed. Before the magistrate has said or done anything, it would hardly be fair to expect an accused person to stand up and say, ‘ I do not like the face of the magistrate and

therefore I must ask for a transfer'. In the course of the proceeding incidents may happen, which may necessitate the asking of an adjournment with a view to seek transfer. I therefore suggested that in the proposed Bill this right of obtaining an adjournment should be secured to an accused person, at any time, in the course of an inquiry or trial whenever it should appear to him that the magistrate is going wrong. But such right should be exercised only once. When I placed this suggestion before the House, I understood that it was generally agreed to and the Government also seemed to agree that it was a reasonable proposition, and promised to consider it sympathetically in the Select Committee, where it was finally agreed to and embodied in the Bill. In this way a substantial advantage to the accused was secured and chances of abuse were materially curtailed.

The second point I would like to mention is this. It has been urged in the House that it would hamper the privilege of an accused person if he is called upon, at the time of notifying to the Court that he is going to seek for the transfer, to execute a bond which prescribes a penalty of Rs. 200 in the event of the accused not following it up and not actually filing a petition. Having regard to the abuse to which the previous law was put, the safeguard proposed is a perfectly fair one. I, however, pointed out in the Select Committee, and I again want to mention it here for the information of the Honourable Members that there was one item in it which I believed might work hardship on an accused. I put before the Select Committee the case of an accused who comes from a village far away from the headquarters of the district, unaccompanied by any friend, to attend his case, and in the middle of the proceedings finds that the magistrate's tendency is to favour the opposite party. If he is then called upon to execute a bond with two sureties, you would be placing him in a very difficult position. He may or may not know anybody in the town, he may be a perfect stranger, no body may be willing to help him. Therefore, I urged that we should drop the condition regarding sureties and take from him a personal recognizance. That I believed would meet the requirements of the Government; and at the same time, it would cause no hardship to the accused. The suggestion I am glad to say was accepted by the Select Committee. Therefore, it comes to this that the man is merely called upon to give an undertaking that in the event of his being proved to have had no intention of filing an application for transfer he would be penalised, and surely he can't complain that he has been harshly treated if he does not even file a transfer petition.

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Similarly, the only way to prevent the mischief is, that in the case of applications which are frivolous or vexatious and are put in merely to obstruct the proceedings, the High Court should have power to penalise the party who tries to do so. That provision is a fair provision.

There remains only one other point, because it has been thrust upon me times out of number by my Honourable friend Mr. Lalchand Navalrai. I take this opportunity of dealing with that point. My learned friend has put a case where two persons were being tried together and one of them all of a sudden turned an approver in the

[Mr. B. R. Puri.]

case. If that man before he turns an approver has already applied for a transfer of the case and if he has already failed to secure transfer, what is the position of the other accused? In the first place I cannot help reminding my Honourable friend that a case like that is no doubt conceivable; but surely such cases do not happen every day, on the other hand cases of the other type—with a multiplicity of accused and each accused if given an opportunity to ask for an adjournment—one can very well imagine the mischief which would accrue if each and every accused one after the other is to exercise the right of holding up the proceedings.

Mr. Lalchand Navalrai : Is not that denying justice?

Mr. B. R. Puri : Proceeding with the case which my learned friend has placed before the House, may I ask him to read section 337 of the Criminal Procedure Code once more? In the first place, a person who is already on his trial as an accused cannot be at the same time an approver. If he is an accused person, then he has got the right to make any statement implicating the co-accused no doubt, and under section 30 of the Evidence Act, whatever that statement may be, that would be taken into consideration by the Court. It has not got the same weight and the same status as sworn testimony, but it can be taken into consideration. Whereas as an approver he has got the right to go into the witness box; he is administered oath which an accused person cannot be; he makes his statement from the witness box and he can be put to the test of cross-examination. Therefore, the two positions are not identical, and in one and the same case and at one and the same time the two positions cannot be merged in one individual. Let us follow this particular case a little further....

Mr. Lalchand Navalrai : Will the Honourable Member....

Mr. B. R. Puri : I am coming to that....

Mr. Lalchand Navalrai : You have not taken up the point which I want to draw your attention to....

Mr. B. R. Puri : I am trying to place before you all the aspects of it. (Laughter.) My Honourable and learned friend says....

Mr. Lalchand Navalrai : My point is this, that an accused in all these cases can be made an approver at any time.

Mr. B. R. Puri : Once the accused is made an approver he is no longer an accused person. That is what I am trying to make you understand. Anyhow, let me have my say. If I fail to convince you....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order. order. The Honourable Member must address the Chair.

Mr. B. R. Puri : Pursuing this case, what I was endeavouring to point out was that it can happen where two persons are being jointly tried that one accused is discharged, and then cited as a witness against the other accused. That is a well known position with which every lawyer is familiar. But dealing with the case of an approver, my Honourable friend ought to know that under the existing law, once there is an approver in a case, the magistrate cannot dispose of that case

himself but is bound to commit it to the Court of Sessions. Therefore, the case would stand automatically transferred to a higher and a better Court. My Honourable and learned friend ought to have known this ; I will just read for his benefit section 337 (2A) which says :

“ In every case where a person has accepted a tender of pardon and has been examined under sub-section (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Session or High Court, as the case may be.”

Mr. Lalchand Navalrai : That is at a later stage.

Mr. B. R. Puri : If transfer is the automatic result of somebody being converted into an approver, my Honourable and learned friend has gained his transfer. Let me meet the case where some evidence is actually recorded after that....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Is it necessary that the Honourable Member should go into such minute details on a motion for the third reading ? The Chair does not wish to stop the Honourable Member, but merely suggests that he need not go into such minute details.

Sir Cowasi Jehangir (Bombay City : Non-Muhammadan Urban) : On a point of enquiry, Sir. Is this the first reading or the third reading ?

Mr. B. R. Puri : For the benefit of my Honourable friend, it is the third reading ; and I have already been reminded by the Chair. There is just one little point left and that is this. If any evidence after the discharge of one accused person is recorded by the magistrate, my Honourable friend is apprehensive that in the process of recording that evidence some incalculable harm is likely to be done to the co-accused. I will try to meet that case. Any evidence in a case recorded by a magistrate—which case is later on to be committed to the Court of Session—is no evidence for the purpose of conviction or otherwise of the accused in the Court of Sessions.

Mr. Lalchand Navalrai : Section 288, Code of Criminal Procedure.

Mr. B. R. Puri : I know section 288. That evidence recorded by the magistrate is not substantive evidence in the case, and the guilt or innocence of the accused will not depend upon what has been recorded by the magistrate. Take the extreme case where the divergence and the discrepancy between the statement which the witness makes in the Court of Sessions and the statement which he has made in the committing magistrate's Court—if the conflict between the two is very great then the Sessions Judge has discretion to transfer the previous statement under section 288 to the Sessions file. In the first place, such a case will very rarely occur, and even if it does occur, for all practical purposes, no harm can possibly be done.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I oppose this Bill. I have not taken any opportunity to speak on this Bill before. So, I hope the House will bear with me when I give my reasons, both political and legal, why I oppose this Bill. I was patiently hearing the eloquent speech of my Honourable friend, Sir Hari Singh Gour, while he was advocating the cause of the Select Committee of which he was the Chairman. If he shows the same responsibility on all occasions, I have nothing to complain, but, I remember,

[Mr. S. C. Mitra.]

when the Bengal Criminal Law Amendment Bill was discussed in the House and the Honourable gentleman was also the Chairman of the Select Committee to which it was referred, unfortunately he was not found anywhere near the House. If we look to the genesis of this legislation, to me it looks like a piece of panicky legislation in these very difficult political times. I admit that the political situation is very difficult, but that is still more the reason why the Government should not have recourse to this kind of panicky legislation. This Bill, closely preceeding the Ordinance Consolidation Bill, shows with what purpose Government are coming forward for such legislation. It is not a fact that this small Bill is an unimportant one. I find, the Bar Libraries throughout India have raised their cries against it. If the abuses by the parties for adjournment are frequent, the abuses of the magistracy are equally so, if not more. I admit that there may be a necessity to put some check on the abuses concerning the adjournments of cases, but I will presently tell you of circumstances where the vagaries of the magistrates were no less. The first question that arises in my mind is this. While this abuse has existed all these years, why have Government chosen this particular time to bring in this legislation? It is an elementary proposition in jurisprudence that an accused person must be presumed to be innocent till the Court has found him guilty, but anybody who will read this piece of legislation will find that from the very beginning there is an attempt to establish that the accused is a guilty person and it is presumed also that he will abuse his rights and privileges by petitioning every time for adjournment. I will ask the Law Member what provision he has made when, on a preliminary hearing, the High Court does not accept the prayer for transfer. I think there is no provision here when the Government Advocate also does not appear to contest it, because in a preliminary hearing it is only one side that makes the petition before the Court. I think there is no provision in this Bill to indicate whether the security will be forfeited if the petition is thrown out at the preliminary hearing by the High Court.....

The Honourable Sir Brojendra Mitter : The security will be forfeited if no application is made and no question of compensation will arise unless a successful party is before the Court.

Mr. S. C. Mitra : Then we can take it that at the preliminary hearing if the petition is thrown out the security will not be forfeited.

The Honourable Sir Brojendra Mitter : No.

Mr. S. C. Mitra : Compensation cannot be demanded ?

The Honourable Sir Brojendra Mitter : There cannot be payment unless there is a payee and as there is no payee, there would not be any payment.

Mr. S. C. Mitra : Then there was another question raised from this side. If, after better legal advice, a party that was willing to move the High Court does not put forward the petition before the Court, what is

the remedy ? It has been replied from the Government side that if, on a better legal advice, he does not proceed with the original purpose of moving the High Court, he has no remedy, because he elected, in the first instance, for a certain course of action, he must suffer ; but in that case I ask Government what provision they make in similar cases when accused persons suffer enormously throughout India. What happens if a great leader or even ladies of very respectable families are arrested and put in police lock up for five or ten days and sometimes for months and, then, on the advice of the lawyers of Government, the case is not proceeded with ; do Government contemplate to pass any legislation for compensation for these people ? I know my friend Mr. Neogy the other day was referring to any number of political cases where gentlemen, educated young people, were kept in *hajats* for months together and then let off without any charge being framed against them. Mr. Neogy, I remember, was referring to a particular judgment where the learned District and Sessions Judge of Dacca passed very strong remarks and, so far as I know, that judgment has been handed over to the Honourable the Home Member ; so that there is abuse on the part of the executive and the police in putting men under arrest and keeping them in lock up not for days, but for months and then letting them off without any compensation. Where is the anxiety of the Government to provide any compensation for this unlawful detention ? I appeal to Government that they should not be panicky. A great Government cannot be maintained with little minds and with panicky legislation. I am afraid that the political pressure is almost unHINGING the mind of the leaders on the Government side. That is the reason why there is a misapprehension in the public mind that it is not so much to remedy the abuses of the process of law as from a political motive that this vindictive legislation is forced on the people. In the Select Committee the point was raised, what usually happens in a conspiracy case, when a co-accused at the very beginning exhausts this one compulsory adjournment process. What is the remedy for other accused persons subsequent to this first move for adjournment ? Why should they suffer, because the opportunity, time and cause of action may arise subsequent to the first application for adjournment. I think that is a great defect in this legislation. There is a provision in section 344, Criminal Procedure Code, where the discretionary power is entirely with the magistrate, but I want some real power in the hands of the accused to get a remedy by moving the High Court, because it has been accepted even by Government that the executive and judicial functions being united in India, there is every chance of an abuse. Government also accept the general principle that there should be separation of the executive from judicial functions ; it is only on the question of finance that that policy has not been given effect to. As long as that policy is not applied here in India, namely, the policy of the judicial being rendered fully independent of the executive control, I appeal to the House to consider whether all these rights should not be interfered with. Sir, I oppose the whole Bill.

Several Honourable Members : I move that the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the question be now put.”

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Mr. Haig.

The Honourable Mr. H. G. Haig : Sir, I do not wish to reply.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill, as amended, be passed.”

The motion was adopted.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Mr. H. G. Haig (Home Member) : Sir, I beg to move (Loud Applause) :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir, in making this motion and in inviting the House to approve the principle of the Bill to supplement the criminal law, I am well aware that I am asking Honourable Members to take a difficult responsibility on themselves. But, as I shall hope to explain in the course of my speech, the circumstances leave no other course open to Government. I am confident, Sir, that Honourable Members will give their fair consideration to the arguments which we, on this side of the House, hope to lay before them ; and that if we convince them, as I hope we shall, they will not hesitate to take the course which they believe to be right in the interests of the country. Now, Sir, the origin of the Bill is very plain. It can be stated in two or three words : “ the civil disobedience movement ”. It is unnecessary to give a history of that movement. I would merely recall, as His Excellency the Viceroy recalled in the address which he gave this House in opening this Session, that when Mr. Gandhi with other representatives of India was sitting in conference with the representatives of the British Parliament, engaged in a general endeavour to reach the greatest measure of agreement as the basis of the new constitution, two very dangerous movements were being organised in India by those who professed to be his followers. One of those movements, Sir, was in the United Provinces. It took the form of an appeal to a large and, on the whole an illiterate, peasantry to refuse the payment of Government dues and to refuse payment of the rent which they owed to their landlords. That was a most dangerous movement, Sir, at a time of great economic pressure, it was an invitation to the people to repudiate the whole economic basis of society. The other movement was proceeding in the North-West

Frontier Province and—as one would expect the conditions of that province—it took a different form. In that martial and inflammable area, the movement that was organised against Government took an open and semi-military form and there was a plain defiance of the authority of Government, a defiance which it would have been impossible for any Government to tolerate in any part of India and, least of all, on the North-West Frontier. The action taken against those movements by Government was met by a renewal of the civil disobedience movement throughout the country. In order to deal with that movement, it was necessary for the Governor General and the Government of India to take very wide powers by a series of Ordinances. Those Ordinances expired after six months. And as the period for their expiry approached, it became evident that we were in no position to discard the weapons with which the civil disobedience movement was being fought. Accordingly, at the end of June, the Governor General issued a new consolidated Ordinance. This, in its turn, will expire at the end of the year. Now, Sir, the problem is, what action Government are to take. The civil disobedience movement, though its manifestations have been much curtailed and though, I think, I can claim that its supporters have lost a good deal of the impetus with which the movement was started, is still in existence and no one can prophesy when it will come to an end. It certainly will not end so long as the leaders still feel that there is any prospect of gaining their objects. Now, Sir, what stands between them and success is mainly the power conferred by the Ordinance and, therefore, it is the view of the Government that the best method of ensuring a speedy end of this movement—a movement which has already caused much distress in the country and great economic loss—is to make it clear that the powers with which the movement is being fought will be continued. But when I say this, Sir, I would not have Honourable Members suppose that it is the desire of Government to attack or to crush the spirit of nationalism in India, a spirit which, to many minds, is the real attraction that lies behind the Congress movement. The Government, Sir, are not inspired by any hostility to that spirit. On the contrary, they are endeavouring, in spite of all these attacks on the one side and on the other, to bend their best energies to give it real practical expression in the new constitution. There are other methods open to the Congress, as there have been all along, for the expression of that spirit than those they have chosen to adopt, and I hope that the time will come when they will be converted from their belief in force which has led them into this mistaken path. But, Sir, that time is not yet and so long as this movement continues, we must have the powers with which we can counteract it. How, then, are these powers to be secured? There can surely be only one answer to that. No Honourable Member would suggest that they should be continued by the issue of a further Ordinance. Honourable Members, when the question of Government policy was under discussion in the House in February last, were very emphatic on this point and no one was more emphatic than my Honourable friend the Leader of the Nationalist Party who invited the Government, an invitation the acceptance of which, I must admit, has been somewhat delayed (Laughter), to place before the House their Bill and he added the assurance, which I take as a

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good augury to-day, that "they have only to place before the House their Bills and they will receive that co-operation and support which this side of the House has never stinted". Well, Sir, as I have explained, the present Ordinance comes to an end at the close of the year. The legislative time that remains before the House is short. We have arranged, as Honourable Members know, for a special session in November, one of the main objects of which is to enable the later stages of this Bill to be considered and I hope concluded by the House. In order to carry through that programme, it is necessary that the Select Committee which we are inviting the House to set up should meet and hold its deliberations in the interval between the two sessions ; and the programme we have under contemplation at present is that the Select Committee should meet about the 20th or the 24th October.

Now, Sir, I am giving these details to the House because I see that it has been suggested, there are certain amendments down on the paper proposing, that the Bill should be circulated for opinion. I think Honourable Members will realise that no effective circulation could be concluded within the period allowed by our programme and I trust therefore that Honourable Members will bear that point in mind. On the merits of circulation, I think that probably both we on this side of the House and Honourable Members opposite can form a very shrewd idea of the kind of opinions we should receive. There is one other suggestion that has been made and I merely refer to it in order to convince the House that clearly there are no real alternatives other than those which I have already explained, namely, a further Ordinance or legislation. That suggestion, Sir, I owe, as I owe so much, to the Indian Press. I must, in spite of the suggestions that have been thrown out from time to time by my Honourable friend Mr. Neogy, assure the House that I am a very diligent reader of the Press.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : I am very glad to hear that.

The Honourable Mr. H. G. Haig : And I derive from it not only information but instruction.

Mr. K. C. Neogy : Is it the *Statesman* ?

The Honourable Mr. H. G. Haig : Well, Sir, the Honourable Member will draw his own conclusions when he hears the suggestions which I read the other day in a very ably conducted paper. This is what was said :

"When a political emergency becomes a normal state of affairs, the time is definitely past for dealing with it either by executive decrees or by legislative enactments. The question, then, is one of ameliorative and conciliatory statesmanship".

I do not know if my Honourable friend thinks that that quotation came from the *Statesman*. It is a very fine and well rounded phrase. But, in my own blunter language, I should be inclined to interpret it as meaning capitulation to the demands of the Congress. If I may paraphrase the argument, it comes to this, that if an illegal movement continues for more than a certain period, the Government must give in to it. But, Sir, in this case, big issues are involved, issues that cannot be determined like a game of football at Annandale by the referee blowing the whistle for "time". We are not playing a game with artificial rules ; the question is whether the Congress is going to impose its will on the whole country and dictate the constitution. On that issue, so far as the Government is concerned, there is no time limit.

Now, Sir, I come to the provisions of the Bill. The Bill is far from including all the provisions of the existing Ordinance. Our object has been to include in the Bill only those powers which a general review of the situation shows are required for the whole of India and to leave it to Local Governments to supplement these provisions by means of local legislation in order to meet local or emergent conditions. Following this principle, we have been able to omit from our Bill the most drastic powers contained in the Ordinance, and in particular sections 3 and 4 with which Honourable Members are no doubt very familiar, those sections which enable the Government to issue certain orders to individuals in regard to the way they should conduct themselves and to detain persons for a brief period without any definite charge. I must make it clear, however, that though we do not consider those powers will any longer be required at the end of the year for the whole of India, there are certain Local Governments in whose areas civil disobedience is still particularly active who will probably find it necessary to ask their legislatures for those powers. But broadly speaking, we have omitted from our Bill, Chapter II of the Ordinance which is headed 'Emergency Powers', Chapter IV dealing with special criminal courts and Chapter V which provides means of dealing with what are usually called no-rent campaigns. The latter we have to leave to Local Governments, not because we are convinced that in certain areas those powers will not be required, but because they appear to us primarily to affect local interests and local conditions. Now, Sir, I have explained the powers which are not included in the Bill. I come now to those provisions, which are included, and these may be roughly grouped under three headings, first provisions against certain forms of intimidation, primarily picketing and boycott, the second, additional provisions against unlawful associations and the third, provisions to secure greater control over the Press. Under the first heading, the most important provisions are those directed against molestation, which is popularly known as picketing. Picketing, Sir, involves, in our opinion, grave interference with the liberty of individuals. It forms, and it has formed from the beginning, an important part of the Congress programme. It is not a question of whether a particular movement in support of which picketing is employed is in itself legitimate. Our point is that the method of picketing is an inadmissible method. I know it is sometimes argued that if a man desires to promote the industries of his own country or more probably injure those of another country, it is legitimate and even laudable for him to coerce his fellow-citizens into agreement with him.

Sardar Sant Singh (West Punjab : Sikh) : In case Government do not come to help.

The Honourable Mr. H. G. Haig : That, Sir, is a very grave invasion of public liberty and the public must be protected against this form of tyranny.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : British goods also must be protected.

The Honourable Mr. H. G. Haig : I would ask the House to allow me to read out a brief passage from the statement issued by Lord Irwin when he enacted the first Ordinance against picketing. He said :

"What is not legitimate is for those who desire these ends, proper as they are in themselves",

he was referring to the promotion of indigenous industries :

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“ to pursue them by means amounting in effect to intimidation of individuals, and to endeavour to force their views on others not by argument, but by the coercive effect of fear. When resort is had to such methods, it becomes necessary for Government to protect the natural freedom of action of those who may wish to sell and those who may wish to buy.”

Mr. K. C. Neogy : Including the vegetable sellers at Midnapur ?

The Honourable Mr. H. G. Haig : That, Sir, as I have already explained, was an order passed under section 4 which has been omitted from the Bill. Then, Sir, there is the question of protecting public servants from boycott, and here also I would ask leave of the House to read out an extract from a similar statement made when Lord Irwin's Government issued the first Ordinance dealing with boycott. He said :

“ unscrupulous efforts are also being made by the organisers of the civil disobedience movement to bring pressure to bear on Government servants to resign their posts or fail in their duty. The methods employed include not only various forms of molestation and intimidation but also definite attempts to use the weapon of boycott against Government servants. Thus, it is found that in different parts of the country not only are the residences of Government servants picketed and they themselves and their relatives subjected to threats of injury to life or property, but organised attempts are made to refuse them necessary supplies ” (*I hope my Honourable friend Mr. Neogy will note that point*) “ the use of transport and the tenancy of houses. These methods have reached their maximum intensity in Gujerat, but they are also being practised in other parts of the country.”

The second category of powers deal with unlawful associations. The existing Criminal Law Amendment Act gives power to declare certain associations unlawful, whereupon those who direct them or are members of those associations become liable to prosecution. The additional powers which we propose and which have been found in the last two years most effective in dealing with the civil disobedience movement are powers to take possession of places used for the purpose of an unlawful association and powers to forfeit the property of such an association. These powers have been found particularly valuable in the Bombay Presidency where at one time the Congress organisation in its Congress House in the heart of Bombay city was really setting itself up openly to challenge the authority of Government and declaring itself a rival power.

Finally, Sir, there are the provisions for the control over the Press. Here I come, as I realise, to difficult ground. There is a long history in this country of measures enacted by Government to control the Press. As Honourable Members are aware, a Press Act was passed in 1910 and remained in force for 12 years. It was repealed in 1922. For eight years the Press remained free of all control. In 1930 Lord Irwin's Government resumed those powers by an Ordinance. When the Ordinance expired the powers lapsed for a month or two, but it was found almost immediately necessary to re-impose them by a further Ordinance. The powers lapsed again on the conclusion of the first civil disobedience movement, but were re-imposed on the outbreak of the second civil disobedience movement and are still in force. It was held by the committee which sat in 1921, on whose advice the Press Act was repealed, that the provisions had been ineffective. One would like to believe that they held that view because in fact the operation of the Act had been imperceptible ; but bitter experience disproved their judgment and the optimism which underlay it. Conditions so far as the Press was concerned deteriorated continuously from 1922 to 1930, and once more I would ask the indulgence of the House to read the statement issued by Lord Irwin when he enacted the Press Ordinance in

to have been the course of events between the repeal of the Press Act in 1922 and 1930. He said :

“ On various occasions since 1922 the evil effects of writings in the Indian press in promoting a spirit of revolution and stirring up extreme hatred of the Government established by law in British India have been brought prominently to notice by certain Local Governments. It has been recognised that the anticipations formed in 1922 have not been fulfilled, but that on the contrary the tone of a certain section of the press has been growing almost steadily worse with its immunity from effective control. The measure of the effectiveness of the Press Act has been shown very clearly by the remarkable accentuation since its repeal of those features which it was intended to check. Prosecutions are from time to time instituted in the worst cases, but it has always been recognised that these provide only a partial remedy, and looked at broadly, are ineffective to control the ceaseless output of extreme seditious and revolutionary propaganda ”.

And further he said :

“ The spirit of revolution fostered by the civil disobedience movement is beginning to emerge in dangerous forms. Nothing at the present moment is operating so powerfully to promote that spirit as the writings in the press, many inciting openly to violent and revolutionary action, others by consistent laudation of the civil disobedience movement encouraging a spirit of lawlessness throughout the country ”.

I recognise, Sir, and the Government fully recognise, that the provisions which it has been necessary to impose giving Government control over the Press are irksome to responsible editors, and there are many such. I am well aware, Sir, of the difficulties that well conducted papers may feel. I was present in 1930 when Lord Irwin received a deputation of distinguished editors of Indian papers to make a representation about the working of the Press Ordinance. But, Sir, looking at the matter broadly I do not think that an impartial visitor to these shores at this moment would regard the Press in this country as being unduly restricted or finding much difficulty in saying very plainly what it thinks of the Government.

Mr. B. Das (Orissa Division : Non-Muhammadan) : In spite of the Press Act ?

The Honourable Mr. H. G. Haig : In spite of the Press Act. But criticisms though trenchant and frank are now normally kept within reasonable bounds and that is, as I see it, the actual operation of the Press Ordinance.

Now, Sir, I pass to another point. It will not have escaped notice that we have not placed a time limit on this Bill. Experience of the past has shown that it is not difficult to start or to revive the kind of movement that we are now experiencing. Anyone who is familiar with the history of India for the last 10 or 15 years will, I think, accept that statement. While I should be sorry to believe that we had reached a normal state of affairs in which these powers are always required, we have to remember that we are passing through a difficult period of transition, and that it is not sufficient that the powers should be in existence merely until the civil disobedience movement ceases, but that they should be available,—without the odium that naturally attaches to the issue of an Ordinance,—in case that movement or a similar movement is revived. When the civil disobedience movement ceases the ideas may be dormant but they will not be dead. We are disposed to think, therefore, that these powers should be secured not only for the existing official Governments during the comparatively brief period that lies before them but that the new governments should at any rate start in possession of

5 P.M.

but that the new governments should at any rate start in possession of

[Mr. H. G. Haig.]

those powers. It will then be open to them to discard them or to leave them unused if they feel that they can safely do so ; and in this connection I would emphasise that we have provided in the Bill that certain powers, particularly those dealing with molestation and boycott, should not come into force except by a notification of the Local Government ; they are not in force automatically ; they are only there to be used if they are required. I am well aware that different views may be held about the proper duration of an Act such as this. But I would impress very earnestly on the House that we are engaged in the very delicate and difficult operation of handing over power in this vast country from one set of hands to another. I am not aware that as a deliberate policy an attempt on such a scale has ever been made before in the history of the world. That operation is bound, according to my reading of history, to set up conditions that have proved to be the most favourable occasions for revolution. It is when the system of government that has been in force for many years begins to reform itself or to transfer its powers to others, that the forces of revolution tend to gather strength. I think that is a fair reading of those tremendous upheavals known as the French Revolution and the Russian Revolution. At such times the minds of men become disturbed, and unless the Government is reasonably strong and can retain control of the situation, the whisper of change is the signal for a sudden uprush of all the discontented elements. We need at such a time to have the authority of Government unquestioned, if we are to avoid the danger of an upheaval in which property and parliaments alike may disappear. We have in India a triple threat to peaceful progress,—civil disobedience, communism and terrorism ; and though the main provisions of this Bill are directed against the first of these, I hope the House will not forget that the provisions relating to the Press will exercise a strong controlling influence over the movements of communism and terrorism. Discontented elements will always tend to coalesce. Though on the surface these three are very different movements, behind the scenes there are certain contacts. Terrorism threatens Government by open force. The other two, civil disobedience and communism, are more subtle in their methods, but possibly even more disastrous in their results, for their object is to destroy the whole basis of respect for authority and the traditional institutions on which society is founded. Thomas Carlyle, the historian of the French Revolution, spoke of our whole being as an infinite abyss over-arched by habit. That image seems to me to be vividly true in the conditions of India, where a crust has been formed—and at times we seem to see in a flash how thin that crust is—a crust has been formed over a great abyss by the labours of many generations which have found expression in the instinctive beliefs and habits of the people. Let us beware, Sir, lest the crust give way and we find ourselves precipitated into the abyss. (Cheers.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly then adjourned till Eleven of the Clock on Thursday, the 22nd September, 1932.

LEGISLATIVE ASSEMBLY.

Thursday, 22nd September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

QUESTIONS AND ANSWERS.

The Honourable Sir Frank Noyce : Sir, I would again ask your permission to reply to the questions put to the Honourable the Leader of the House.

REFUSAL BY MADRAS GOVERNMENT TO FURNISH FIGURES TO THE ACCOUNTS OFFICER ATTACHED TO THE ORISSA COMMITTEE.

579. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) if they are aware that the Madras Government did not at first furnish figures to Mr. Balvali, the Accounts Officer attached to the Orissa Committee, and that Mr. Balvali had to stay in Madras without work for a number of days on that account ; and
- (b) the number of days Mr. Balvali toured round the District of Ganjam and Vizagapatam to compile and verify the information ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : (a) I am not aware of any refusal or omission by the Madras Government to furnish figures. There was a slight misunderstanding touching procedure, but this was subsequently cleared up.

(b) I have no information.

Mr. B. Das : Is it not a fact, Sir, that Mr. Balvali had to wait for nearly a month in Madras and the Madras Government did not furnish him with any information until the Finance Member from Delhi telegraphed to the Finance Member in Madras to supply the information which was wanted, and then the Government of Madras gave Mr. Balvalli the information within three or four days ?

The Honourable Sir Frank Noyce : The Honourable Member will, I am sure, not expect me to furnish detailed information in reply to that question, but I understand that the delay was only a question of a few days.

Mr. B. Das : Was it not partly due to the reticence of the Madras Government to supply the necessary information as that may lead to the parting away of the northern districts of the Madras Presidency to Orissa ?

The Honourable Sir Frank Noyce : I do not think so.

Mr. B. N. Misra : Will the Honourable Member kindly inquire whether as a matter of fact Mr. Balvali had to wait in Madras and then tour through Vizagapatam and Ganjam for about ten days, as no information was given to him by the Madras Government ?

The Honourable Sir Frank Noyce : I can see no necessity for inquiries into what is now past history.

COMPARATIVE STATEMENTS OF REVENUE AND EXPENDITURE OF THE GANJAM DISTRICT.

580. ***Mr. B. N. Misra :** Will Government be pleased to lay on the table a comparative statement of Revenue and Expenditure of the Ganjam District furnished by the Government of Madras to the Simon Commission, the figures compiled by Mr. Balvali for the Orissa Boundary Committee and the figures accepted by the Attlee Sub-Committee after due verification ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : The Madras Government submitted no such statement to the Statutory Commission.

For a statement of the Revenue and Expenditure of the Ganjam District the Honourable Member is referred to pages 602-603 of the Memoranda submitted by the Government of India to the Indian Statutory Commission. For the Orissa Committee's figures I would refer the Honourable Member to Appendices I and II to its report. A summary of the report of the Attlee Sub-Committee is given on pages 50-51 of Volume II of the report of the Indian Statutory Commission but I have no information of any detailed verification of figures by this Committee.

Mr. B. N. Misra : Is it not a fact, Sir, that the Madras Government also claimed relief from the contribution which the Government of India were giving ?

The Honourable Sir Frank Noyce : I would suggest to the Honourable Member that he should put down a question on that subject.

BOUNDARIES OF THE PROPOSED ORIYA PROVINCE.

581. ***Mr. B. N. Misra :** (a) Will Government be pleased to state whether they are aware of (i) the proposals of the late Lord Curzon's Government to unite Oriya-speaking tracts in 1903, (ii) the representations made by the Oriyas to the Montague-Chelmsford Enquiry in 1918-19, (iii) the Resolution of the Bihar and Orissa Legislative Council regarding the union of Oriya tracts in 1922-23, and (iv) the report of the Phillip-Duff Commission in 1924 ?

(b) Will Government be pleased to state when they are going to give their final decision about the boundaries of the Oriya Province ?

(c) Will it be at any rate before the inauguration of the new reforms ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : (a) Yes.

(b) and (c). The whole question is under consideration and Government are unable to make any statement at present.

Mr. Gaya Prasad Singh : Are Government aware that the Bihar and Orissa Legislative Council only recently passed a Resolution unanimously recommending that all the Oriya-speaking tracts should be united into a separate province ?

The Honourable Sir Frank Noyce : I imagine, Sir, that Government have information on that point.

Mr. Gaya Prasad Singh : Are Government aware that we, the people of Bihar, are anxious to help our brethren in Orissa to the extent that lies in our power so that all the Oriya-speaking tracts should be united into a separate province ?

The Honourable Sir Frank Noyce : I am quite content to accept the Honourable Member's assurance on that subject.

Sir Hari Singh Gour : But who will foot the Bill for the deficit which the Simon Commission estimated might amount to about 85 lakhs ?

The Honourable Sir Alan Parsons : I may assure my Honourable friend that the Government of India will certainly have to consider that question.

Mr. B. Das : May I know if the Attlee Committee recommended that Orissa will pay its way and the O'Donnell Committee showed only a deficit of 85 lakhs ?

The Honourable Sir Frank Noyce : I am much obliged to the Honourable Member for the information.

Mr. Gaya Prasad Singh : Are Government aware that the people of Orissa do not desire any subvention from the Government, and that they are willing to run their Government from their own resources ?

The Honourable Sir Frank Noyce : I am sure my Honourable colleague the Finance Member will be glad to have that information.

Mr. B. Das : I quite agree with the sentiment expressed by my Honourable friend, Mr. Gaya Prasad Singh, and I am very grateful to him.

AVERAGE ANNUAL INCOME AND EXPENDITURE OF ANGUL DISTRICT AND GANJAM AND VIZAGAPATAM AGENCIES.

582. ***Mr. B. N. Misra :** Will Government be pleased to state the average annual income and expenditure in 1927-28, 1928-29 and 1929-30 of (a) Angul district in Bihar and Orissa, (b) Ganjam Agency in Madras, and (c) Vizagapatam Agency in Madras ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : I am unable to supply the information asked for by the Honourable Member as I am not in possession of the figures. A statement of expenditure of the Angul district in Bihar and Orissa is given in the Bihar and Orissa Budget estimates.

ORIYA AND NON-ORIYA-SPEAKING POPULATION OF ANGUL.

583. ***Mr. B. N. Misra :** Will Government be pleased to state :

- (a) the total population of Sadr Sub-division in Angul,
- (b) the number of Oriya-speaking population in Angul, and
- (c) the number of Non-Oriya-speaking population in Angul ?

The Honourable Mr. H. G. Haig : (a) 140,458.

(b) 137,508 in Angul Sadr and 170,469 in the whole district.

(c) 2,950 in Angul Sadr and 52,267 in the whole district.

Mr. B. Das : Is the Honourable Member aware that Angul is at present treated as a backward tract, and the Lothian Committee recommended that it should be treated as an advanced district ?

The Honourable Mr. H. G. Haig : No, Sir ; I am not aware of that.

Mr. B. Das : Will the Honourable Member kindly accept my statement that Angul is treated as a backward tract under the administration of the Political Department, and it should now come under the complete normal administration of the Government ?

The Honourable Mr. H. G. Haig : I was not intending in any way to question the Honourable Member's statement, I was merely declaring my own ignorance.

GRIEVANCES OF INDIANS IN MADRAS COAST LIGHT SERVICE.

584. ***Mr. Muhammad Muazzam Sahib Bahadur :** Has the attention of Government been drawn to an article under the heading " Madras Coast Light Service " which appeared in the *Swarajya* of the 2nd February, 1927 ? If so, what action have Government taken to redress the grievances of the Indians during the last five years ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : No, Sir. The latter part of the question does not therefore arise. I may, however, mention that the direct administration of the general lights in the Madras Presidency was taken over by the Government of India only with effect from the 1st April, 1929.

PROMOTION TO THE HEAD LIGHTKEEPER'S GRADE IN THE MADRAS PRESIDENCY.

585. **Mr. Muhammad Muazzam Sahib Bahadur :** (a) Are Government aware that three Assistant Lightkeepers in the Madras Presidency, viz., Messrs. E. Walker, A. F. Cooper and W. J. Carr were promoted as Head Lightkeepers after only a couple of years service as Assistants ? Have such promotions been given to members of other communities also ?

(b) Will Government be pleased to state the length of Light House Service which ordinarily entitles an Assistant Lightkeeper to promotion as Head Lightkeeper ?

(c) Is it a fact that a few years ago the officer controlling the Coast or General Light House establishment in the Madras Presidency issued more than one circular pointing out that promotion to the Head Lightkeepers' grade would be governed by merit and efficiency quite apart from seniority ? Have these circulars been given effect to ? If not, why not ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : (a) Messrs. E. E. Walker and A. F. Cooper were promoted to the grade of Head Lightkeeper in the Madras Presidency after two years' service while Mr. W. J. Carr was promoted after seven years' service. Such promotions were also given to members of

other communities. I may mention that these promotions were made prior to 1907, whereas the direct administration of the General Light-houses in the Madras Presidency was taken over by the Government of India, with effect from the 1st April, 1929.

(b) No length of service has been prescribed.

(c) The circulars to which the Honourable Member refers pointed out that seniority combined with merit and efficiency would give greater claim to promotion to the Head Lightkeeper's grade. These circulars have been given effect to.

MUSLIM ASSISTANT LIGHTKEEPERS IN THE GENERAL LIGHT HOUSES OF THE MADRAS PRESIDENCY.

586. ***Mr. Muhammad Muazzam Sahib Bahadur** : Will Government be pleased to state how many Muslims are now working as Assistant Lightkeepers in the General Light Houses of the Madras Presidency and what is the length of Light House service rendered by each of them ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : There is one Muslim serving as an Assistant Lightkeeper in the General Lighthouse Department in the Madras Presidency. His total lighthouse service amounts to a little over 22 years of which about 11 years' service has been rendered in the General Light-house Department.

APPOINTMENT OF MUSLIMS IN THE GENERAL LIGHT HOUSE SERVICE IN THE MADRAS PRESIDENCY.

587. ***Mr. Muhammad Muazzam Sahib Bahadur** : (a) Are Government prepared to give an assurance that one Muslim at least will be permanently appointed to any existing or next vacancy in the Head Lightkeepers' grade ?

(b) Are Government prepared to consider the desirability of maintaining at least three Muslims as Assistant Lightkeepers in the General Light House service in the Madras Presidency ?

The Honourable Sir Frank Noyce (on behalf of The Honourable Sir C. P. Ramaswami Aiyar) : (a) As I have already mentioned, there is only one Muslim Assistant Lightkeeper in the Madras Presidency. As the claims of all qualified Assistant Lightkeepers have to be considered, the Government are not prepared to give such an assurance.

(b) There are in all 25 Assistant Lightkeepers in the General Lighthouse Service in the Madras Presidency. The Government are prepared to consider the desirability of increasing the number of Muslim Assistant Lightkeepers in the Madras Presidency, but in view of the fact that Muslims form only a little over seven per cent. of the total population of the Presidency, they are unable to guarantee the number suggested by the Honourable Member.

COMMUNAL COMPOSITION OF CERTAIN POSTAL OFFICIALS IN THE MADRAS CIRCLE.

588. ***Mr. Muhammad Muazzam Sahib Bahadur** : Will Government be pleased to state the total number of appointments of Inspectors of Post

Offices and Head clerks to Superintendents of Post Offices in the amalgamated cadre of the Postal Department in the Madras circle ? How many among them are Brahmins, Non-Brahmins, Anglo-Indians, Christians and Muslims ?

The Honourable Sir Frank Noyce : 89, of whom 50 are Brahmins, 27 Non-Brahmins, four Anglo-Indians, six Indian Christians and two Muslims.

WAITING MUSLIM CANDIDATES FOR CERTAIN POSTAL APPOINTMENTS IN THE MADRAS CIRCLE.

589. **Mr. Muhammad Muazzam Sahib Bahadur :** Will Government be pleased to state the number of Muslim candidates in the waiting list for appointments as Inspectors of Post Offices and Head clerks to Superintendents of Post Offices in the Madras circle ?

The Honourable Sir Frank Noyce : Five.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE GRADE OF INSPECTORS OF POST OFFICES IN MADRAS.

590. ***Mr. Muhammad Muazzam Sahib Bahadur :** (a) Will Government be pleased to state, what action the Postmaster General, Madras, has taken to set right the communal inequality in his circle with respect to Muslims in the posts of Inspectors of Post Offices ?

(b) How many Muslim candidates have been appointed as Inspectors of Post Offices as from the waiting list of candidates ?

(c) If no action has been taken what are the reasons therefor ?

(d) Will Government be pleased to state whether this communal inequality was brought to the notice of the Director General, Posts and Telegraphs, through the annual statements of the composition of staff sent to the Directorate year after year from the circle office ? If not, why not ?

(e) What action has been taken by the Director General to remove this inequality in the Madras circle with respect to Muslims in the posts of Inspectors of Post Offices ? If no effective measures have already been taken, what action do they propose taking now ?

The Honourable Sir Frank Noyce : (a) to (d). Government do not propose to make enquiries on the subject, since as has been frequently stated in this House, promotion from a lower to a higher grade in the Department is regulated by considerations of merit and seniority. The representation of minority communities is secured by the reservation of vacancies occurring in such posts as are filled by direct recruitment, and Government are not prepared to allow communal considerations to override all others when it is only a question of making promotions.

DEPARTMENTAL NOMINATIONS FOR THE EXAMINATION OF SUPERINTENDENTS OF POST OFFICES FROM THE MADRAS PRESIDENCY.

591. ***Mr. Muhammad Muazzam Sahib Bahadur :** (a) Will Government be pleased to state when the last nominations from the departmental men were made, for the examination of Superintendents of Post Offices from the Madras Presidency ?

(b) What was the total number of these nominations and how many were Muslims among the candidates so nominated ?

(c) Will Government be pleased to state how many Muslim candidates were recommended for the above nominations by the Presidency Postmaster, Madras and by the Divisional Superintendents of Post Offices in the Madras circle ? How many of them were selected by the Postmaster-General, Madras and recommended to the Director General ?

The Honourable Sir Frank Noyce : (a) In 1930

(b) The Postmaster General, Madras, recommended to the Director General six departmental subordinates of whom none was a Muslim.

(c) One by the Presidency Postmaster, Madras, and one by a Divisional Superintendent of Post Offices. Neither of them was recommended by the Postmaster General as the one was considered not sufficiently experienced and the other was age-barred.

DEPARTMENTAL NOMINATIONS FOR THE EXAMINATION OF SUPERINTENDENTS OF POST OFFICES FROM THE MADRAS PRESIDENCY.

592. ***Mr. Muhammad Muazzam Sahib Bahadur :** (a) Will Government please state when the next nomination from the departmental men for the examinations of Superintendents of Post Offices will be called for, from the Madras circle ?

(b) What measures do they propose to take to safeguard the interests of the Muslim community in the Madras circle in respect of the nomination of Muslim candidates in the future departmental examinations ?

The Honourable Sir Frank Noyce : (a) Owing to the large number of qualified officials already waiting for promotion to the grade of Superintendent of Post Offices, it is unlikely that any further nomination will be called for for some time to come.

(b) The posts in question are selection grade posts and in this connection the Honourable Member's attention is invited to part (b) of the reply given in this House on the 9th March, 1932, to Sardar Sant Singh's starred question No. 731.

COMMUNAL INEQUALITIES IN THE INCOME-TAX DEPARTMENT, BIHAR AND ORISSA.

593. ***Maulvi Badi-uz-Zaman :** With reference to the information supplied to me by Government in reply to my starred question No. 492 on the 17th September, 1931, will Government be pleased to state what measure they took to adjust communal inequalities in the Income-tax Service, Bihar and Orissa, when due to the lowering of the taxable limit recruitment of staff on a large scale was made only very recently ?

The Honourable Sir Alan Parsons : I would invite the Honourable Member's attention to the information laid on the table on the 30th March, 1932, in reply to Mr. M. Maswood Ahmad's unstarred question No. 73.

DISCHARGE OF A MUSLIM CLERK FROM THE INCOME-TAX OFFICE, PURNEA.

94. **Maulvi Badi-uz-Zaman** : Will Government be pleased to state :

- (a) whether it is a fact that one Maulvi Abdul Bari who was a clerk in the Income-tax Office, Purnea, has been discharged from service on account of retrenchment ;
- (b) if so, whether there was a majority of Muslims in the department concerned ;
- (c) if the answer to part (b) above is in the negative, why are the non-Muslims, who are in a majority, not being discharged instead of the Muslims ;
- (d) whether it is a fact that side by side with retrenchment extra establishment has been entertained in the Province to deal with the increase of work ;
- (e) if the answer to part (d) above is in the affirmative, how Government reconcile the position ;
- (f) whether it is a fact that in no other Province any retrenchment of permanent staff has been made ;
- (g) if the answer to part (f) above is in the affirmative, what the reasons were for discharging experienced hands in the Province and appointing raw hands in their place ;
- (h) whether it is not a fact that by the above measure of discharging permanent hands and appointing new hands in their place there has been increase in the cost of the Income-tax Department instead of saving ;
- (i) whether Government propose to put a stop to this kind of practice ; and
- (j) whether Government contemplate examining the case of the unfortunate staff of the Income-tax Department, Bihar and Orissa, who have been discharged on account of retrenchment ?

The Honourable Sir Alan Parsons : (a) Yes.

(b) No.

(c) It is not a fact that non-Muslims have not been retrenched. Out of two gazetted officers and four ministerial officers retrenched, all but one ministerial officer were non-Muslims.

(d) The extra establishment entertained is on a temporary basis and has been employed on account of increased work due to the lowering of the minimum taxable limit.

(e) The staff selected for retrenchment was so selected on grounds of inefficiency.

(f) Yes.

(g) It is not thought desirable to reduce the permanent staff in other Provinces ; such retrenchment was found possible in the Province of Bihar and Orissa.

(h) No. No new hands have been taken in place of the permanent hands discharged.

(i) No.

(j) No.

CURTAILMENT OF POWER OF APPOINTMENT AND DISMISSAL OF THE COMMISSIONERS OF INCOME-TAX.

595. **Maulvi Badi-uz-Zaman** : Will Government be pleased to state :

- (a) if it is a fact that the Commissioner of Income-tax in a Province is the sole authority to appoint and dismiss any gazetted and non-gazetted staff under him, subject only to the nominal control of the Local Government ;
- (b) if the answer to part (a) above is in the affirmative, whether Government propose to curtail the unlimited power of the Commissioner in the matter of appointment and dismissal ; and
- (c) what is the remedy provided in the rules for an aggrieved staff against an order of a Commissioner of Income-tax ?

The Honourable Sir Alan Parsons : (a) Yes. But the appointment of Assistant Commissioners of Income-tax and Income-tax Officers is subject to the previous approval of the Governor in Council. In the case of Assistant Commissioners the approval of the Public Service Commission is also necessary.

(b) No.

(c) Any aggrieved officer has a remedy by way of appeal to the higher authorities against the orders of the Commissioner of Income-tax.

Mr. Lalchand Navalrai : May I know who the higher authorities are, whether it is the Central Board of Revenue or any other ?

The Honourable Sir Alan Parsons : I am almost sure it is the Central Board of Revenue.

Mr. Lalchand Navalrai : Will the Honourable Member be pleased to say whether the appeals have been numerous to the Central Board of Revenue ?

The Honourable Sir Alan Parsons : Will the Honourable Member give me notice of that question. There have been some appeals to them but I cannot say whether they have been numerous.

PUBLICATION OF TENDERS FOR COAL AND NAMES OF SUCCESSFUL TENDERERS IN NEWSPAPERS.

596. ***Mr. A. H. Ghuznavi** : (a) Are Government aware that in his speech in the Assembly on the 17th March, 1932, the Honourable Sir George Rainy said " We published all the tenders in the newspapers and subsequently also published the names of successful tenderers ". Will Government be pleased to state whether all tenders and names of successful tenderers for coal for Company-managed and Guaranteed State Railways, dealt with by the Chief Mining Engineer, Railway Board, as also for all Government departments, such as Army Department, Ordnance Factories, Royal Indian Marine Departments, Port Commissioners, Vizagapatam Harbour, Chittagong Harbour, etc., were published ?

(b) If not, are Government prepared to publish a list of all coal tenders without exception and the names of all successful tenderers with full details ?

Mr. P. R. Rau : (a) In his speech of the 17th March, 1932, the Honourable Sir George Rainy was dealing with the purchase of coal for State-managed Railways only.

A complete list of tenders for the supply of coal to State-managed Railways for 1932-33 was published in the *Capital and Commerce*.

It has not been the practice hitherto for Company-managed Railways and other Government Departments to publish similar lists of the coals offered.

A list showing the names of successful tenderers, description of the coal and seams and quality accepted from each colliery with the rate per ton for each Company-managed Railway and for the Army Department has been published in the *Indian Trade Journal* for 19th November, 1931, 31st December, 1931, 7th January, 1932, and 21st January, 1932.

(b) The question, whether lists of all tenders should be published or only lists of successful tenders, will be considered.

OPENING OF TENDERS FOR COAL DEALT WITH BY THE CHIEF MINING ENGINEER.

597. ***Mr. A. H. Ghuznavi** : (a) Is it a fact that all tenders dealt with by the Chief Mining Engineer, except those for the State Railways, are opened *in camera* ?

(b) Are Government prepared to issue instructions that tenderers be requested to be present when tenders are opened and contents of all tenders be read out to the tenderers present ?

Mr. P. R. Rau : (a) Yes. This is in accordance with the wishes of the Railway Administrations and the Departments concerned.

(b) The suggestion will be considered, so far as the departments under the control of Government are concerned.

Dr. Ziauddin Ahmad : Is it not desirable that the purchases ought to be made by the Controller of Stores. Is it really the business of the Stores Department to purchase ?

Mr. P. R. Rau : I do not think that the Chief Controller of Stores would be prepared to undertake the purchase of coal for one thing. The second reason is, seeing that the railways purchase coal for their own requirements, all the advantages of bulk purchase exist in the present procedure where the Chief Mining Engineer advises the Railway Board in making the purchases for State Railways.

Dr. Ziauddin Ahmad : As the purchases are not made exclusively for the Railways but for other departments also, why should not the Stores Department be utilised for this purpose as it is maintained at great cost.

Mr. S. C. Sen : If one agency is employed for the purchase of coal, will not Government have a better control over the market ?

Mr. P. R. Rau : That is the reason for the present procedure, and seeing that the bulk of the coal is purchased for the railways, the purchase is made through the State Railways Coal Department.

SUCCESSFUL TENDERERS FOR COAL PURCHASED FOR CERTAIN RAILWAYS, ETC.

598. ***Mr. A. H. Ghuznavi** : Will Government be pleased to lay on the table a list of successful tenderers for coal purchased for the year 1932-33 for the Bombay, Baroda and Central India Railway ; Assam-Bengal Railway ; Jodhpur Railway ; Rohilkund and Kumaon Railway ; Bengal and North Western Railway ; Madras and Southern Mahratta Railway ; South

Indian Railway ; Marine Department ; Army Headquarters ; Port Commissioners of Calcutta ; Vizagapatam Harbour, and Port Trust, Chittagong, giving (a) names of parties, (b) descriptions of coal, (c) seams, (d) quantities and (e) rates ?

Mr. P. R. Rau : The Honourable Member is referred to the issues of the *Indian Trade Journal*, dated 19th November, 1931, 31st December, 1931, 7th January, 1932, and 21st January, 1932, containing the information regarding Company-managed Railways. The Chief Mining Engineer of the Railway Board does not purchase coal for the Jodhpur Railway, Vizagapatam Harbour, Port Commissioners of Calcutta or the Port Trust, Chittagong, though on occasions he has given advice on tenders when requested. Information regarding the Army Department and the Royal Indian Marine is being collected and on receipt will be laid on the table.

Dr. Ziauddin Ahmad : Is it not a fact that the Chief Mining Engineer has got three different functions as the supervisor of mines, manager of Government mines and the purchaser of coal for the railways and for all Departments of Government ?

Mr. P. R. Rau : The Chief Mining Engineer is not the supervisor of mines.

Dr. Ziauddin Ahmad : I thought the principal function of the Chief Mining Engineer was to advise Government in all questions relating to mines.

The Honourable Sir Frank Noyce : The Government of India have a Chief Inspector of Mines for that purpose.

Dr. Ziauddin Ahmad : Is it not duplication of work in these days of retrenchment ? Why should not one post be abolished ?

Mr. P. R. Rau : The Inspector of Mines does not deal only with State railway collieries. His duties are with regard to safety in mines, and the interests of labour employed in mines, whether private or State-owned. The Chief Mining Engineer controls only State-owned collieries.

Dr. Ziauddin Ahmad : Will the Honourable Member state what are the duties of the Chief Mining Engineer and lay a copy of his duties in a printed form on the table of the House.

Mr. P. R. Rau : There is no printed form stating his duties but I may inform the Honourable Member that his business is to manage the collieries owned by the State railways, and purchase coal from the market. Incidentally he is at present President of the Coal Grading Board under the Soft Coal Cess Committee.

Dr. Ziauddin Ahmad : And also to purchase coal on behalf of Government Departments ?

Mr. P. R. Rau : For certain of the departments who ask for advice.

TENDERS FOR SUPPLY OF COAL FOR THE PORT COMMISSIONERS, CALCUTTA.

599. ***Mr. A. H. Ghuznavi :** Will Government lay on the table the list of coal tenders for the supply of coal from June to 31st December, 1932, for the Port Commissioners, Calcutta, shewing the grades of each coal tendered and the list of the tenders accepted ?

Mr. P. R. Rau : I place on the table a statement showing the information called for.

A statement showing the tenders received by the Commissioners for the Port of Calcutta for the supply of coal during 1932 and the tenders accepted by the Commissioners.

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LEGISLATIVE ASSEMBLY.

[22ND SEPTEMBER 1932.]

Name.	Rate.			Grade.	Delivery.			Quantity accepted.
	A. Bunker coal 1st class 13,500 tons.	B. Locomotives, engine house and Workshop coal and 2nd class bunker coal—24,500 tons.	C. Hard Coke for Workshop 200 tons.		A. After 1st April 1932.	B. After 1st April 1932.	C. After 1st June 1932.	
1. The Pure Kajora Coal Co., Ltd.	Rs. ..	Rs. (24,500 tons.) 3-8-0 ..	Rs. ..	..	..	Do.	..	..
2. Messrs. Burn & Co. (Managing Agents, Indian Iron and Steel Co., Ltd.).	..	..	(200 tons) 8-8-0 per ton.	..	..	..	Do.	Accepted C, 200 tons.
3. Messrs. Fulchand & Sons, (Proprietors Khas Jambad Colliery).	..	(10,500) 3-0-0	..	Do.	..	Do.	..	..
4. The Ceonka Coal Co. ..	..	(7,000) 2-14-0	..	Not graded	..	Do.	..	..
5. The Apear Collieries ..	(13,500 tons) 4-8-0	(24,500) 3-2-0	..	A. Selected B. Grade I.	Do.	Do.	..	..
6. The South Kajora Colliery Co., Ltd.	..	(12,000) 3-8-0	..	Not graded	..	Do.	..	..
7. Messrs. Shaw Wallace, Co. ..	(13,500) 4-6-0	(24,500) 3-6-0	(200) 10-0-0	A. Selected B. Grade I. C. Selected.	Do.	Do.	Do.	..
8. The Bengal Iron Co., Ltd. ..	(13,500) 4-4-0	..	(200) 8-12-0	Selected grade Do.	Do.	..	Do.	..
9. Messrs. Roy, Dutt & Co. ..	..	(12,000) 3-8-0	..	..	..	Do.	..	Accepted B, 3,000 tons.
10. Messrs. Seth Tarachand Ghanshyamdas,	..	(12,000) 3-0-0	..	Grade I	..	Do.	..	..

	(200)	10-0-0	..	Do.	Accepted B. 3,000 tons.
11. Messrs. Mackinnon Mackenzie & Co.	..	..	..	..	..
12 The Upper Kajora Colliery..	..	..	Selected	Do.	..
13. Messrs. Tyrnbull Bros., Ltd.	(13,500) 3-8-0	..	..	Do.	..
14. Hursookdas Balkissendas ..	..	..	Grade I	Do.	..
15. Messrs. Macneill & Co.	(13,500) 4-12-0 Dishergarh	Dishergarh ..	}	..	..
	Ponaiti 4-8-0	Ponaiti ..	} Selected	Do.	..
	(13,500) 4-8-0	No. 17 ..			
	(13,500) 3-14-0	No. 14 ..			
16. Bannerjee Santan ..	..	..	..	Do.	..
17. Messrs. B. N. Mondal & Co.	(13,500) 3-2-0	..	A. Selected .. B. Not graded.	Do.	..
18. Messrs. Martin & Co.	(13,500) 3-4-0	..	A. Selected and B. Grade I.	Do.	..
19. Messrs. N. H. Ojha & Co. ..	..	..	Selected	Do.	..
20. Messrs. Nandwana & Co. ..	..	..	Selected	Do.	..
21. Messrs. Turner Morrison & Co.	(13,500) 4-8-0	(200 11-0-0 tons).	Selected	Do.	..
22. Messrs. K. C. Pal Chowdhury & Bros.	..	..	Grade I	Do.	..
23. The Royal Kajora Colliery ..	..	..	Grade I	Do.	..
24. Messrs. Villiers, Ltd.	(5,000) 3-2-0 Kajora, Dharbhanga	..	..	Do.	..
	(8,500) 3-2-0 Toposi,	..	..	Do.	..
	Singaran.	..	..	Do.	..
25. Messrs. Chandannull Indrakumar.	(13,500) 4-0-0 Dishergarh.	..	Selected grade Grade I.	Do.	..
	(13,500) 2-14-0 Kajora.	..	..	Do.	..

Name.	Rate.			Grade.	Delivery.			Quantity accepted.
	A. Bunker coal 1st class 13,500 tons.	B. Locomotives, engine house and Workshop coal and 2nd class bunker coal—24,500 tons.	C. Hard Coke for Workshop 200 tons.		A. After 1st April 1932.	B. After 1st April 1932.	C. After 1st June 1932.	
26. Messrs. Chandanmull Indrakumar.— <i>contd.</i>	Rs. (13,500) 2 11-0 (13,500) 2-10-0 (12,000) 4-4-0	Rs. Kajora (24,500) 2-10-0 Nimcha (24,500) 2-8-0 (6,600) 4-4-0 (24,500) 3-6-0	Nimcha Bensla	Grade I Do. Selected Do.	Do. .. Do. ..	Do. .. Do. ..	.. .. .. ..	.. .. .. Accepted B. ' 3,000 tons.
26. The Pure Dishergarh Colliery Co.	..	..	..	Do.	..	Do.	..	..
27. The Sitalpore Coal Co. ..	..	..	..	Grade I Selected Grade I.	..	Do.	Do.	Accepted A. 13,500 tons B. 3,000.
28. The Khas Jharria Colliery Co.	..	..	..	..	..	Do.	..	..
29. Mr. H. K. Nag ..	(13,500) 4-4-0	(24,500) 3-0-0	..	..	..	Do.	..	..
30. Messrs. Balmer Lawrie & Co.	(13,500) 4½	Joyramdanga (24,500). 2-12-0	(200) 9-0-0	A. Selected .. B. Not graded.	Do.	Do.	Do.	..
31. Messrs. K. B. Seal & Sons	(13,500) 4½ (13,500) 4-0-0	Mosharbahal (24,500) 2-6-0	..	C. Not graded. A. Selected .. B. Grade III. Grade I ..	Do.	Do.	..	..
32. The South Jambad Coal Co., Ltd.	..	(24,500) 3-6-0	..	..	..	Do.	..	..
33. Messrs. Jardine Skinner & Co.	(13,500) 4-0-0	(24,500) 4-8-0 (24,000) 4-0-0	(200) 9-0-0	A. Grade I .. B. Selected and Grade I. C. Foundry Bararee. Ungraded Selected	.. Do. Do.	Do. Do.	.. ..	Accepted 5,000 tons.
34. The Industry Colliery Co. ..	..	(24,500) 2-6-0	..	..	..	Do.	..	..
35. Shethia & Pure Karkend Colliery Co.	(13,500) 3-12-0	..	..	..	..	Do.	..	..

36. The South Samla Colliery Co. 37. Messrs. Amritlal Ojha & Co., Ltd.	.. ..	(24,500) (24,500)	2-14-0 3-6-0	.. ..	Ungraded Selected	.. ..	Do. Do.	.. ..	Accepted B. 3,000 tons.
38. Guddar Kajora Colliery Co., Ltd.	..	(24,500)	3-6-0	..	Grade I	..	Do.	..	..
39. The North Adjai Coal Co., Ltd.	(6,500)	4-4-0	3-2-0	Charanpur (200) 9-0-0 Jambad ..	A. Selected	..	Do.	Do.	..
40. Mr. R. P. Shaha ..	(13,500)	9-8-0	3-6-0	..	B. Grade I. C. Selected.	..	Do.	..	..
41. Mr. Devji Trikanji ..	(12,000)	3-0-0	..	..	A. Selected	..	Do.	..	..
42. The Siduli Colliery Co., ..	(13,500)	4-0-0	3-6-0	(1) Simlabahal (200) 10-0-0	B. Grade I.	..	Do.	..	..
43. Messrs. H. V. Lowe & Co. ..	(13,500)	3-8-0	3-8-0	(2) New Simidhi (24,500) 3-8-0	A. Selected and Selected.	..	Do.	..	Accepted B. (3) 4,500 tons.
44. Messrs. Banerjee & Co. ..	(13,500)	3-6-0	3-6-0	(3) Kuardi ..	B. Grade I.	..	Do.	..	..
45. Mr. C. P. Cornish ..	(13,500)	2-12-0	3-6-0	(4) Sultanpur (24,500) 2-12-0	C. Selected.	..	Do.	..	..
46. The National Coal Co., Ltd.	(13,500)	2-12-0	2-12-0	(5) Lakurka.	A. Selected .. B. Grade I and C. Selected.	..	Do.	Do.	..
47. Karamchand Thapar & Bros.	(13,300)	4-6-0	2-12-0	(200) 8-0-0	Grade I	..	Do.	Do.	..
48. Messrs. B. Mukerjee & Co. ..	(13,500)	3-0-0	3-0-0	Agardih ..	Do.	..	Do.	Do.	..
49. Messrs. Andrew Yule & Co.	(13,500)	4-12-0	4-8-0	(200) 8-0-0 (200) 10-8-0	Selected No. I Grade .. Selected and No. I.	..	Do.	Do.	..
50. Ghusialk Coal Co. ..	(12,000)	3-2-0	..	Sibpore Pretoria. Viceroy. Nandi. Adjai Valley. 3-2-0 Sibpore. Pretoria. Bank Simula.	Grade I	..	Do.	..	..

ACCEPTANCE OF TENDERS OF THE UNIVERSAL TRADING COMPANY FOR JAMBAD COAL.

600. ***Mr. A. H. Ghuznavi** : (a) Was Mr. S. C. Ghosh of the Universal Trading Company the President of the Indian Mining Federation ? Is he a Port Commissioner of Calcutta, and a colleague of the Chief Mining Engineer in the Coal Grading Board and the Soft Coke Cess Committee ?

(b) What was the reason that influenced the decision of Government to accept tenders for Jambad coal of the Universal Trading Company in preference to lower offers for Jaunbad and Kajora coal ?

(c) Is it a fact that Kenda coal was a condemned quality during the late Mr. Church's time, but that Kenda coal of Mr. M. N. Mukherjee was purchased in 1931-32 and 1932-33 at higher rates when cheaper rates for Kenda coal or similar grade of coal were available ? If so, why ? Is it not a fact that the price of Kenda coal is Rs. 2 to Rs. 2-4-0 per ton and Mr. Mukherjee was paid at the rate of Rs. 3-8-0 ? If so, why was the taxpayer made to pay a higher rate for the coal of the *ex*-Chairman, Indian Mining Federation ?

(d) Are Government prepared to have the seam of this Kenda coal inspected by the Chief Inspector of Mines and ascertain whether it is not the same as the Kenda seam of Balmer Lawrie and Company ? Is not Mr. M. N. Mukherjee's Khas Kenda coal banded in several places and are Government aware that they have shales and stones unlike the real Kenda coal ?

(e) Are Government prepared to have samples taken by the Chief Inspector of Mines from the whole section of this seam, have them analysed and state whether this coal can be rightly graded under No. 1 quality according to which its rate was fixed and money paid for Railway and Port Commissioner purchases ?

(f) Did this colliery fail to deliver coal under contract to the Port Commissioners in previous years, and, if so, why was its name not removed from the list ?

Mr. P. R. Rau : (a) I have had the information given by the Honourable Member checked, and understand it is correct. I should add that in his capacity of a Commissioner for the Port of Calcutta and Member of the Coal Grading Board, Mr. Ghosh represents the Bengal National Chamber of Commerce. As a Member of the Soft Coke Cess Committee he is one of the seven members representing the Indian Mining Federation.

(b) The policy of Government with regard to purchases and the principles on which the selection of different varieties of coal is made was explained fully to the House by the Honourable Member for Railways in reply to a question put by Mr. A. Das at the beginning of this Session. The application of these principles was illustrated by reasons for a certain number of particular purchases. Having explained the position at such length Government do not propose to reply individually to the various questions asked by my Honourable friend as to the reasons for selecting one coal in preference to another. This applies to his questions Nos. 604, 611, 651, 654, 655 in this list as also to Nos. 742, 743 (a), 744, 745 (a), 746 (a), 747, 748, 750 to 753 and 759 in the next list.

(c) The answer to the first part of this question is in the negative.

(d) and (e). It is not one of the functions of the Chief Inspector of Mines to sample and analyse coal or act as a revising authority in respect of the Coal Grading Board's grading. As previously pointed out, coal purchases of railways are not made on Grading Board classifications. I am informed that all so-called Kenda seams are interspersed with shale bands.

(f) Government have no information as the Port Commissioners invite their own tenders, make their own final acceptances and give orders for their own supplies.

Dr. Ziauddin Ahmad : As regards (c), I did not follow the reply given. Is it not a fact that the price of tender coal was Rs. 2 and Rs. 2-4-0 per ton but Mr. Mukherjee was paid at the rate of Rs. 3-8-0 ?

Mr. P. R. Rau : Well, Sir, I have already explained that Government are not prepared to reply to the various detailed questions as to the reasons for selecting one grade of coal in preference to another ?

Dr. Ziauddin Ahmad : Do I then understand that Government do not wish to reply to this particular part of the question ?

QUANTITIES OF COAL CANCELLED FROM ANNUAL CONTRACTS IN EACH RAILWAY .

601. ***Mr. A. H. Ghuznavi :** Will Government please lay on the table a statement shewing the quantities of coal that have been cancelled from annual contracts in each Railway from 1924-25 to 1931-32 in exercise of the discretion of cancelling ten per cent. of each contract under the clause of the tender or contract form, and also lay a statement shewing the firm whose contracted quantities were not cancelled by ten per cent. by the Chief Mining Engineer ?

Mr. P. R. Rau : The only information readily available is with regard to the cancellations in respect of State-managed railways from 1927-28 onwards. A statement containing this information is placed on the table.

Statement.

1927-28.—Only the following contracts were reduced by 10 per cent. :—

	Tons.
Apear & Co.'s Charanpore	2,400
Shaw Wallace & Co.'s Huntodih	2,400
M. K. Khanna & Co.'s Kharkharee	4,800

1928-29.—Contracts were not reduced.

1929-30.—Contracts were not reduced.

1930-31.—Only the following contracts were reduced :—

	Tons.
Macneill & Co.'s. Deshergur	2,400
Andrew Yule & Co.'s	5,500
Andrew Yule & Co.'s	5,500
Andrew Yule & Co.'s Murulidih	3,400
K. B. Seal & Sons' Kalithan Gurgaon	1,100
K. B. Seal & Sons' Kalithan Suratar	1,100
Chasnalla Coal Co.'s Chasnalla	4,800
Sir M. B. Dadabhoy's Ballarpur & Co.	4,400

1931-32.—All contracts for State-managed Railways, as published in the Indian Trade Journal, were reduced by 10 per cent. with the exception of those for the

Eastern Bengal Railway for which Railway the following contracts only were reduced by 10 per cent. :—

			Tons.
Andrew Yule & Co.'s. Seebur	Poniati	.. ..	2,500
Martin & Co.'s. Poriapur	.. ..	.. ..	1,200
Martin & Co.'s. Smala	.. ..	.. ..	5,000

PURCHASE OF COAL AT HIGHER RATES FOR THE RAILWAYS.

602. ***Mr. A. H. Ghuznavi :** (a) Will Government state the reasons why arrear coals against contracts for 1925 were taken in 1927 from Messrs. A. C. Banerjee and Company from Nichitpur and Pure and Khas Kajora Company, Limited's Kajora Collieries at Rs. 4-8-0 and Rs. 5 per ton ? Are Government aware that the prevailing price of this kind of coal was Rs. 2-4-0 and Rs. 3 per ton respectively from 1927 to 1932 ?

(b) What quantity of Nichitpur coal was taken by the East Indian Railway from 1927 to 1931 and at what rates ?

(c) Was not Sowardih and Fularibad arrear coal purchased by the East Indian Railway from Messrs. Villiers, Limited, in 1927 at Rs. 9-8-0 per ton ? Are Government aware that the market price of that coal was Rs. 4 per ton ?

Mr. P. R. Rau : The information asked for by the Honourable Member is being obtained and will, when received, be laid on the table.

CLASSIFICATION OF JAMBAD COAL.

603. ***Mr. A. H. Ghuznavi :** Is it a fact that in the Coal Grading Book, all coals from Jambad Collieries are graded under Grade 1 ? If so, will Government state how and why Messrs. Amritalal Ojha and Company's Jambad coal of the same seam (No. 271 in Coal Grading Board List) has been placed under selected grade ? If it has been correctly classified, will Government state why the other Jambad coals have not been raised to this class ?

Mr. P. R. Rau : The grading of any particular coal is determined in accordance with the rules of the Coal Grading Board who must have had adequate reasons for their decision in the cases mentioned by the Honourable Member. It is obvious that the quality of the seam need not be uniform even in adjacent collieries.

PURCHASE OF COAL AT HIGHER RATES FOR THE RAILWAYS.

†604. ***Mr. A. H. Ghuznavi :** Will Government state why old 10 seam coal (now called 11 and 12 seams) from Mr. Kumud Bihari Bose's (North Burrakar Coal Company), Lodhna Nos. 11 and 12 coal has been accepted at the high price of Rs. 3-8-0 per ton in preference to purely 12 seam coal offered by Mr. J. P. Linton and the Collector of 24 Parganahs (S. P. Raha and Sons' Godhar colliery) ?

†605. *

†For answer to this question, see answer to question No. 600.

‡This question was withdrawn by the questioner.

INDIAN MINING FEDERATION SUPPORT TO RAILWAY BOARD'S COAL PURCHASE METHOD.

606. ***Mr. A. H. Ghuznavi** : Are Government aware that Messrs. Ghosh, Mukherjee, Ojha and Bose referred to in the preceding questions are the four persons who were instrumental in sending the telegram in the name of the Indian Mining Federation, which the Honourable Sir George Rainy read out to the House on the 17th March, 1932, in support of the Railway Board's or Mr. Whitworth's coal purchase method ?

Mr. P. R. Rau : From the statement circulated to Members by the Committee of the Indian Mining Federation it will be observed that the telegram sent by the Indian Mining Federation was unanimously approved of at a meeting in which nine out of 13 Members of the Committee of the Federation were present and that the Committee adhere to it after further careful consideration.

CHECKING OF SUPERIOR AND INFERIOR QUALITIES IN COAL MIXTURES.

607. ***Mr. A. H. Ghuznavi** : When Government accept a mixture of different seams, do Government fix the proportions in which they are to be mixed up ? Is there any effective means of checking the exact proportions of superior and inferior qualities in a mixture ?

Mr. P. R. Rau : Unless otherwise specified in the contract or the tender, the mixture is supposed to be in equal proportions.

Checking the supplies from different seams is possible by inspection of the underground working and surface inspection and keeping a note of the loadings from separate seams. Railways can, moreover, cease purchasing from collieries where there is a risk of the contract not being adhered to and this must act as a deterrent.

OUTPUTS OF COAL FROM DIFFERENT SEAMS.

608. ***Mr. A. H. Ghuznavi** : (a) Will Government state whether coals of seams 11, 12 and 13 of Mr. B. K. Roy's Gonshadih Colliery and Seth Tarachand Ghanshyamdas's Jerampore Colliery have been separately graded and what are the outputs from each seam ?

(b) Are these 11 seam coals being sold as 12 and 13 seam coals at the high rate of Rs. 3-4-0 per ton ?

Mr. P. R. Rau : (a) Yes.

Gonsadih 13 seam is in Selected Grade—output 1,500 tons per month but capable of doing 2½3,000 tons per month.

11 and 12 seams are in Grade I—output 2,000 tons per month but capable of doing 2,500½3,000 tons per month.

Jeyrampore, 13 seam is in Grade I—output 1,000 tons per month but capable of doing 2½3,000 tons per month.

11 and 12 seams combined are in Grade II—output 1,500 tons per month but capable of doing 3,500 tons per month.

(b) I understand this is not the case as regards purchases made by the Chief Mining Engineer.

Dr. Ziauddin Ahmad : If it is the Chief Mining Engineer who really grades this coal, does he do it for private collieries as well, and is he allowed to have private practice ?

Mr. P. R. Rau : No, Sir. I do not understand what is meant by " private practice ".

Dr. Ziauddin Ahmad : What I mean is that private owners may pay him for the examination and inspection of his coal and for grading it.

Mr. P. R. Rau : Any private colliery is under the rules of the Coal Grading Board entitled to send a sample of the coal to the Board for the purpose of being graded.

Mr. S. C. Sen : Is it not a fact that when a private owner wants to have his coal graded, he has to pay a fee, which formerly was Rs. 200 and is now Rs. 175, and that on the representation of the colliery owner the Chief Mining Engineer or the Grading Board make arrangements for the selection and examination of coal from the colliery and then grade it ?

Mr. P. R. Rau : I am not aware of these details, but I have no doubt that my Honourable friend is correct.

Dr. Ziauddin Ahmad : To whom does this go—to the Chief Mining Engineer or the Government ?

Mr. P. R. Rau : To the Coal Grading Board.

GRADING OF COAL

609. ***Mr. A. H. Ghuznavi :** (a) Will Government state why Messrs. Roy, Dutt and Company's Kajora coal is placed under the Selected Grade when almost all other Kajora coals are under grade I ?

(b) Did the Dacca Municipality send a sample of their coal to the Alipore Test House for analysis and did it not fail to satisfy the tests for Selected Grade ? Did Messrs. Roy, Dutt and Company approach the authorities of the Test House for a favourable report ? Will Government please place on the table the letter of the Superintendent of the Alipore Test House to the Chairman of the Dacca Municipality in this connection ?

Mr. P. R. Rau : (a) The grading of the coals is made according to the rules of the Coal Grading Board.

(b) I am informed that a sample of coal was received from the Dacca Municipality to be tested for calorific value only and a test certificate on this point was issued. No opinion regarding the grading of coal was asked for. As regards the second part of the question, I understand no such application was received. Government are not prepared to publish correspondence passing between the Superintendent and clients of the Test House.

GRADING OF COAL.

610. ***Mr. A. H. Ghuznavi :** (a) Is it a fact that Messrs. N. H. Ojha and Company's Khas Sitalpore coal (Jambad) has been placed under

Selected Grade ? If so, are Government prepared to have samples taken by the Chief Inspector of Mines and tested to see if it has been correctly graded ?

(b) Will Government state whether the coal of Messrs. Linton Brothers' Angarpathra Colliery, belonging to Messrs. Triguniat Brothers was graded under Selected Grade in the Grading Board List after its transfer to the former ?

Mr. P. R. Rau : (a) The answer to the first part of the question is in the affirmative. As I have already explained, it is not the function of the Chief Inspector of Mines to act as a revising authority over the grading done by the Indian Coal Grading Board.

(b) The grading given to this coal in 1926 still holds good.

PURCHASE OF COAL AT HIGHER RATES.

†611. ***Mr. A. H. Ghuznavi :** Will Government state the reasons why Messrs. Williamson Magor Co.'s Angarpathra Coal of No. 14 Seam of No. 1 grade was accepted at Rs. 4 per ton in preference to that of Messrs. Triguniat Brothers' Angarpathra Coal of Selected Grade which was offered at Rs. 3-10-0 per ton ?

SUBMISSION OF TENDERS FOR COAL.

612. ***Mr. A. H. Ghuznavi :** (a) Are Government aware that Mr. Whitworth recognised (1) K. K. Mukherjee, (2) N. R. Ojha, (3) N. H. Ojha, and (4) Rai A. C. Banerjee Bahadur as agents or managing agents of other collieries although they are not recognised as such by the Chief Inspector of Mines under the Indian Mines Act, and accepted tenders put through them as such Agents or Managing Agents, and that tenders offered direct by these collieries concerned are not accepted unless they go through these agents ?

(b) If not, are Government prepared to institute an inquiry ?

Mr. P. R. Rau : I understand that the Chief Mining Engineer accepts tenders only from the proprietors or the recognised Managing Agents of firms. Agents under the Mines Act are responsible for working and safety of the Mines and do not necessarily have anything to do with the selling of coal.

ACCEPTANCE OF TENDERS FOR COAL.

613. ***Mr. A. H. Ghuznavi :** (a) Is Mr. A. L. Ojha recognised as agent by the Chief Inspector of Mines under the Indian Mines Act for the Collieries from which coals have been purchased by the Chief Mining Engineer taking Messrs. A. L. Ojha and Company for Agents ?

(b) If not, will Government state how tenders offered by him as the Agent of Messrs. A. L. Ojha and Company for the Army Department, and the State and other Railways were accepted ?

Mr. P. R. Rau : (a) As I have already stated, the Agent of a colliery as recognised by the Indian Mines Act is not necessarily the Managing Agent or Selling Agent.

(b) Tenders were accepted from Messrs. A. L. Ohja and Company only in respect of coal from collieries for which they were the recognised selling agents.

TENDER FORMS FOR COAL.

614. *Mr. A. H. Ghuznavi : Have Government considered the advisability of providing two more columns in the tender form, contiguous to the seam column, one to shew the grading of the coal tendered and the other for the number shewn in the Coal Grading list for the purpose of verification ?

Mr. P. R. Rau : Government do not consider this necessary. For reasons that have already been explained at length by the Honourable the Railway Member, coal for Railways and Government Departments are not purchased on the Coal Grading Board Classification.

ANALYTICAL RESULTS OF GRADED COALS.

615. *Mr. A. H. Ghuznavi : (a) Have Government considered the desirability of tabulating the tenders starting serially with the lowest rate at the top under each classification similarly as published by the Indian Coal Grading Board ?

(b) Are Government prepared to publish the analytical results of all graded coals in the Grading Board list ?

Mr. P. R. Rau : (a) As the Coal Grading Board Classification is not the basis of purchase, Government do not consider that there will be any useful purpose served by this procedure.

(b) Analytical results of coals graded are supplied by the Coal Grading Board, on request, to those owners or Managing Agents whose coals have been graded.

COAL FOR CONSUMPTION BY RAILWAYS.

616. *Mr. A. H. Ghuznavi : (a) Are Government prepared to make it a rule that no ungraded coal should be accepted for Railway consumption ?

(b) Are Government aware that coals of the Central Provinces Mines are not graded and that Mr. Whitworth does not accept analytical results in the Memoirs of Geological Survey ?

Mr. P. R. Rau : (a) No. Grading is intended primarily for export.

(b) The Indian Coal Grading Board Act applies only to British India. These Collieries in the Central Provinces which are in British India may on application to the Coal Grading Board and payment of the prescribed fee have their coals graded.

The Department of the Chief Mining Engineer has an up-to-date complete list of analysis of all coals worked both in and out of British India so that there is no necessity for consulting other analytical reports.

Dr. Ziauddin Ahmad : What are the duties and constitution of the Coal Grading Board ?

Mr. P. R. Rau : I would refer the Honourable Member to the Coal Grading Board Act.

Dr. Ziauddin Ahmad : There is a charge of six pies per ton-; how is this money spent ?

Mr. P. R. Rau : Does that arise out of this question ?

Dr. Ziauddin Ahmad : It is mentioned in paragraph 2 of the question No. 611 I think ? I thought it was mentioned in paragraph 2 very definitely ?

Mr. P. R. Rau : I am now answering question No. 616.

COST OF RAISING COAL OF RAILWAY COLLIERIES.

617. ***Mr. A. H. Ghuznavi :** (a) To enable the public to compare the costs with those of other collieries, will Government give detailed figures, instead of in abstract form, for cost of raising coal of Railway collieries, showing separately cost of raising steam and of raising slack coal put into wagons at each Railway colliery siding ?

(b) Will Government also shew the rates each contractor is paid for raising steam and slack coal respectively for the several collieries giving the respective outputs of the collieries concerned ?

Mr. P. R. Rau : (a) The information available is published annually in the supplement to the Pink Book for Collieries and from this year will be given in the Appropriation Accounts which have been prepared in accordance with the wishes expressed by the Public Accounts Committee and in a form approved by them.

(b) I lay a statement on the table showing the rates generally paid in each colliery.

The rates for raising both steam and slack coal are given below :

Giridih from Re. 1-1-0 to Re. 1-8-0 per ton.

Jt. Bokaro Re. 1-8-0 per ton for quarries.

Kargali Re. 1-3-0 per ton for quarries.

Re. 1-9-0 per ton for Pits.

Re. 1-15-0 per ton for incline.

Argada from Re. 1-3-0 to Re. 1-6-0 per ton for quarries.

Bhurkunda Re. 1-14-0 per ton for inclines.

Swang Re. 1-3-0 per ton for quarries.

Re. 1-7-0 per ton for incline.

COST OF RAISING COAL FROM THE GIRIDIH COLLIERY.

618. ***Mr. A. H. Ghuznavi :** (a) Is not the cost of raising coal from the Giridih Colliery Rs. 5 and to this another annas 12 is debited against the operating department of the East Indian Railway as cost of raising at the end of every year ?

(b) If so, why, and do Government propose to stop its raising till the market price exceeds Rs. 5-12-0 or coal is scarce ?

Mr. P. R. Rau : (a) I understand that the present cost is estimated at Rs. 5 but that the statement that annas 12 is debited against the Operating Department of the East Indian Railway is not correct.

(b) Does not arise.

†619. •

†620. •

MR. WHITWORTH'S LETTER TO THE RANGOON CORPORATION *RE* COAL OFFERED BY MR. AMRITLAL OJHA.

621. *Mr. A. H. Ghuznavi : (a) Has the attention of Government been drawn to the report of the Rangoon Corporation's coal contract for 1932 published in the *Rangoon Times* and to the proceedings of the coal contract meetings of the Rangoon Corporation, particularly to Mr. Ba Pa's remarks that Mr. Whitworth gave a letter to the Corporation, uncalled for, regarding the coals offered by Mr. Amritlal Ojha and that Mr. Amritlal Ojha was changing samples of coal for trial ?

(b) Will Government be pleased to state the reasons why Mr. Whitworth gave such a letter to Mr. Ojha ?

Mr. P. R. Rau : (a) No.

(b) I have been able with some difficulty to trace the letter referred to by the Honourable Member. I understand it was written by Mr. Whitworth to Mr. Quamby of Messrs. Balmer Lawrie and Company, the Managing Agents of the New Beerbhoom Coal Company, Ltd., in response to the request by the latter for his opinion on the Barrakur Low Volatile Coals.

OWNERS OF CERTAIN COLLIERY CONCERNS.

622. *Mr. A. H. Ghuznavi : (a) Will Government ascertain from the Chief Inspector of Mines and state who are the recorded owners of :

- (1) Khas Jheria Colliery Company,
- (2) Messrs. Kusunda and Nayadi Collieries Company, and
- (3) Industry Coal Company ?

(b) Will Government state who secured contracts for these collieries and if any State Railway colliery-raising contractor was connected with them ?

Mr. P. R. Rau : (a) All the information available with regard to the owners of collieries is contained in the list of coal mines worked under the Indian Mines Act in British India which is published annually by the Chief Inspector of Mines.

(b) The contracts were secured by the Colliery Companies who tendered the coals. Government have no information as regards the share holders of these Collieries.

†This question was withdrawn by the questioner.

STATEMENT *RE* MONTHLY ALLOTMENT OF COAL CONTRACTORS AND THE QUANTITY OF CONTRACTS, ETC.

623. ***Mr. A. H. Ghuznavi** : Will Government lay on the table a statement shewing the monthly allotment from April to June, 1932, as under ?

Coal Contractors ..	The quantity of the monthly Contracts.	Programme of despatches given by the Chief Mining Engineer to each Contractor monthly for April, May and June.
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Mr. P. R. Rau : Government regret they are unable to comply with this request as the compilation of the statement asked for will involve undue labour and time.

It may be stated that despatching instructions are issued by the Railways in accordance with their requirements, *vide* Clause 5 of the Form of Tender for the supply of coal to State Railways. The Chief Mining Engineer only forwards these instructions to collieries.

ACCEPTANCE OF COAL IN ADVANCE OF THE CONTRACTED PERIOD.

624. ***Mr. A. H. Ghuznavi** : (a) Is it a fact that arrears of supplies were cancelled and ten per cent. of the contracted quantities were not being taken delivery of by the Railways ? Will Government state whether coal in advance of the contracted period was taken from (1) Mr. S. C. Ghosh, (2) Mr. K. K. Mukherjee and (3) Mr. N. H. Ojha ? If so, why ?

(b) Will Government be pleased to lay on the table a list of those who applied for advance supplies and who were granted this privilege in the 1932-33 contracts ?

Mr. P. R. Rau : (a) and (b). Apart from the operating of the ten per cent. optional clause in State Railways, contracts for the year 1931-32, Government are not aware of any cancellation of arrears of supplies.

The following firms applied for advance deliveries :

- (a) The Universal Trading Company Jambad Colliery.
- (b) The North Adjai Coal Company Jambad Colliery.
- (c) Poniat Collieries Limited.
- (d) North Barakar Coal Company.
- (e) K. K. Mukherjee Bowla Colliery.
- (f) Amritlal Ojha and Company.
- (g) South Kajora.

The advance deliveries were taken from firms (a), (d) and (g) mentioned above to the extent of 550 tons, 710 tons and 348 tons respectively, because depots who use these classes of coal ran short of stocks.

CHECK OVER DELIVERY OF CORRECT QUALITY OF COAL CONTRACTED FOR.

625. *Mr. A. H. Ghuznavi : (a) Is the Assistant Coal Superintendent always personally present to look after all loadings at each colliery ?

(b) If not, what steps are taken to prevent the collieries contracting for mixtures of superior coals from passing off mixtures of inferior coals for superior ones ?

(c) Can Government vouch for the contracted quality of the mixtures having been supplied ? If not, what steps do Government propose to take to ensure delivery of the correct quality of coal contracted for ?

Mr. P. R. Rau : (a) No.

(b) and (c). Though it is not possible for Assistant Coal Superintendents to inspect daily all loadings at each colliery, a colliery is visited as frequently as necessary. The number of inspections depends on the standard of loading maintained at each colliery. If a particular colliery is detected later in these frauds, the remedy is not to buy from that colliery again and this is one of the reasons why the lowest tenders are not always accepted.

LOADING OF BOTTOM SEAM COAL OF SELECTED GRADE FOR RAILWAYS.

626. *Mr. A. H. Ghuznavi : Are Government aware that in certain collieries at Raneegunj both top and bottom seam coals are raised by one and the same pit or by pits situated as Ao Bo Co on the same siding where wagons can easily be hand-shunted to load half with top seam coal and the other half with the bottom seam coal ? If so, will Government please state what check, if any, the Assistant Coal Superintendent has to ensure only the bottom seam coal of selected grade being loaded for Railway and shipment coal ?

Mr. P. R. Rau : (a) Yes.

(b) In addition to the inspection of the Assistant Coal Superintendent, Government must rely on the honesty and reliability of the suppliers supplemented by the fear of losing future contracts, if detected.

FUNCTIONS OF THE FUEL INSPECTOR AND THE FUEL DISTRIBUTOR, ETC.

627. *Mr. A. H. Ghuznavi : (a) Are the Chief Operating Superintendents of Railways also locomotive and/or combustion engineers ?

(b) What are the functions of the Fuel Inspector and the Fuel Distributor ?

Mr. P. R. Rau : (a) Not necessarily.

(b) The names are self-explanatory.

SAVING EFFECTED BY CHANGE IN THE SYSTEM OF COAL PURCHASE.

628. *Mr. A. H. Ghuznavi : Will Government state what savings have been effected in the State Railways by abolishing the previous system of coal purchase by the Locomotive Superintendent of each Railway and substituting instead the present method of receiving and disposing coal tenders and of elaborate superintendence by the Chief Mining Engineer, Coal

Superintendent, Assistant Coal Superintendent, Operating Superintendent, Fuel Distributor and Fuel Inspector ; and how does the cost of establishment compare ?

Mr. P. R. Rau : It is not possible to work out the exact savings but the advantages of bulk purchase are obvious.

ACCEPTANCE OF TENDERS FOR COAL BY THE NORTH BURRAKUR COAL COMPANY, LIMITED.

629. ***Mr. A. H. Ghuznavi :** (a) Are Government aware that in the publication of the Indian Coal Grading Board 1932, on page 35, it is stated in the remarks column :

“ 14 Seam workings of the North Burrakur Coal Company, Limited, are closed. ”?

Are Government prepared to ascertain from the Chief Inspector of Mines and state if the workings of this Seam have been resumed and, if so, since when and, if not, how does Mr. Kumud Bihary Bose, Managing Agent of the North Burrakur Company, Limited, fulfil his contract for supplying 14 Seam coal ?

(b) If so, will Government state why with the knowledge that this Seam had been closed they accepted tenders for supply of coal from this 14 Seam ?

Mr. P. R. Rau : (a) The working of 14 Seam at North Burrakur Coal Company were only temporarily closed. 14 Seam coal is being delivered against contract.

(b) This part of the question, therefore, does not arise.

CONTRACT FOR THE SUPPLY OF COAL BY THE PANIATI MINE.

630. ***Mr. A. H. Ghuznavi :** (a) Is it not stated in the State Railways' coal tender form that “ no weathered coal will be accepted ” ?

(b) Is not Mr. Nag's Paniati Mine the abandoned colliery of Messrs. Apear and Company ? If so, will Government state whether “ Weathered and water-marked coal ” of Paniati Mine has been contracted for—the contracted quantity being 18,000 tons for the State Railways and 16,000 tons for the Commissioners of the Port of Calcutta, the quantities contracted for and on behalf of the other Railways being unknown ? If so, how and why ?

Mr. P. R. Rau . (a) Yes.

(b) Some coal of this Colliery is superficially stained. This staining is very common in the Paniati Seam and may be seen at Collieries other than Mr. Nag's in the Paniati Area where deep coal is not worked. Where the water marking is found throughout the body of the coal it is not loaded for Railways and Government Departments.

FREIGHTS EARNED BY STATE RAILWAYS ON COAL.

631. ***Mr. A. H. Ghuznavi :** (a) Will Government please lay on the table a comparative statement shewing the freights earned by the respective

(i) Is it a fact that the depositions of the witnesses in the enquiry were not read over to them and were not signed by them ?

(j) Is it a fact that the findings and report of the said enquiring officers were not made known to the complainant Pundit Mohan Lal Sharma ?

Mr. G. S. Bajpai : (a) Yes. The allegation against Munshi Gaya Pershad was that he attempted to violate the sanctity of the complainant's *zenana*.

(b) The Extra Assistant Commissioner, Ajmer-Merwara, and the Assistant Superintendent of Education, Ajmer-Merwara.

(c) The reply to the first part of the question is in the negative. The second part does not arise.

(d), (e), (f) and (g). The reply is in the negative.

(h) Yes ; but the evidence was soon after typed and signed by the inquiring officers, who certified it to be correct.

(i) The reply to the first part is in the negative and to the second in the affirmative.

(j) No.

Mr. Gaya Prasad Singh : Is not, Sir, an Honourable Member of the House in honour bound not to make a serious allegation against an officer of the Government, unless he is prepared to substantiate it by indisputable proof ?

Mr. G. S. Bajpai : That question is not addressed to me as I made no allegations.

Mr. Gaya Prasad Singh : The Honourable Member knows to whom this question is addressed.

ADVERTISEMENT FOR THE POST OF HEAD MASTER, GOVERNMENT HIGH SCHOOL, AJMER.

635. ***Khan Bahadur Haji Wajihuddin :** Will Government please enquire and state whether it is a fact that after the retirement of Mr. H. M. C. Harris, applications for the post of the Head Master, Government High School, Ajmer, were called in by advertisement ? If not, why not ?

Mr. G. S. Bajpai : The reply is in the affirmative. Applications were not invited because suitably qualified candidates were available on the existing cadre of the Education Department, Ajmer-Merwara.

RELATIONS OF RAI SAHIB PANDIT P. B. JOSHI, HEAD MASTER, GOVERNMENT HIGH SCHOOL, AJMER, EMPLOYED IN THE SAME SCHOOL.

636. ***Khan Bahadur Haji Wajihuddin :** Will Government please enquire and state whether it is a fact that the younger brother of Pundit P. B. Joshi and several other relations of the said Pundit Joshi were working as Assistant Masters in the Government High School, Ajmer, when the said Pundit Joshi was appointed as Head Master of the said High School ? If so, why were so many persons related to one another working in one and the same institution ?

Mr. G. S. Bajpai : The only relation of Rai Sahib Pandit P. B. Joshi employed as a teacher in the Government High School, Ajmer, when he was appointed Head Master, was his younger brother, Mr. N. K. Joshi. The latter part of the question does not arise.

**ABSENCE OF MEDICAL AND OTHER FACILITIES FOR THE SECRETARIAT STAFF
ALLOTTED SUMMER HILL QUARTERS.**

637. ***Mr. Lalchand Navalrai** (on behalf of Sardar Sant Singh) :
(a) Are Government aware of the feeling that several members of the Secretariat Staff who have been allotted quarters at Summer Hill are not keen on occupying them for want of medical, educational and other facilities ?

(b) Is it a fact that about fourteen of the allottees for 1932 surrendered their claims or did not reside in the quarters allotted on account of what is stated in part (a) above ?

The Honourable Sir Frank Noyce : (a) Some clerks may hold such views, but other clerks have shown readiness to occupy the quarters.

(b) The reply is in the negative.

Mr. Lalchand Navalrai : Will the Honourable Member please state whether the timings of the special train that is running between Summer Hill and Simla have been changed to suit the convenience of the Members ?

The Honourable Sir Frank Noyce : I have already answered that question on two occasions in this House.

Mr. Lalchand Navalrai : I should like to know if Government are prepared to change the timings of the train to suit the convenience of Members, because they are now asked to occupy those quarters.

The Honourable Sir Frank Noyce : No, Sir. I have already answered the question at some length in this House and stated that the timings of the train are arranged to suit the convenience of clerks working in the Army Headquarters who are in the majority at Summer Hill and that every facility is afforded by the heads of Civil Departments to allow their clerks to take advantage of that train. They are allowed to attend office at 9.45 A.M. and to leave 4 P.M.

Dr. Ziauddin Ahmad : Will the Honourable Member safeguard the interests of the clerks of the Civil Departments and ask the Government to allow them to travel without payment in the same way as the clerks of the Army Headquarters do.

The Honourable Sir Frank Noyce : I have no reason to believe that the interests of the clerks in the Civil Departments are not safeguarded. If the Honourable Member will bring to my notice any instance in which the clerks in the Civil Departments are not being allowed to avail themselves of the facility, I shall be happy to refer the matter to the department concerned.

Dr. Ziauddin Ahmad : I was told on the floor of this House by the Army Secretary that the clerks in the Army Headquarters are allowed to travel free, while the clerks in the Civil Departments have to pay.

The Honourable Sir Frank Noyce : I am sorry ; I thought the Honourable Member was referring to the timings of the train and not to the question of charge. I shall be glad to look into the matter.

TRANSFER OF PRISONERS CONVICTED OF TERRORIST CRIMES TO THE ANDAMANS.

638. ***Mr. Muhammad Azhar Ali :** With reference to the discussions in the Bengal Legislative Council about the transfer of prisoners convicted of terrorist crimes to the Andamans and Government's decision thereon, will Government be pleased to state :

- (a) whether this House will have an opportunity to discuss the policy with regard to the transfer of such prisoners ; and
- (b) whether the term " convicted terrorist " as used by the Secretary of State in his announcement in the British Parliament, includes all convicted congressmen or only Bengal " convicted terrorists " ?

The Honourable Mr. H. G. Haig : (a) I have already answered a number of questions on the subject and I hope I have made the policy of Government clear.

(b) A congressman is not synonymous with a terrorist. The prisoners who are being transferred to the Andamans are those who have been convicted in connection with terrorist crime.

REPRESENTATION OF MUSLIMS IN THE INCOME-TAX DEPARTMENT, BIHAR AND ORISSA.

639. ***Mr. M. Maswood Ahmad :** (a) Is it a fact that three appointments of Inspector-Accountant have been made by the Commissioner of Income-tax, Bihar and Orissa, without any advertisement ?

(b) Is it a fact that out of these three posts none has been given to a Muslim ?

(c) If the answer of part (b) be in the affirmative, will Government be pleased to state the reasons why the claim of the Muslims has been overlooked ?

(d) Is it a fact that out of these three appointments, two have been given to two Bengalees and one to a Biharee Hindu ?

(e) Will Government be pleased to state whether all the three candidates had any special qualifications ?

(f) If the answer to part (e) be in the affirmative, will Government be pleased to state what special qualifications the candidates had ?

(g) Are Government aware that there was already inadequate representation of the minority communities in general and of the Muslim community in particular in the Income-tax Department, Bihar and Orissa ?

The Honourable Sir Alan Parsons : (a) No. The vacancies for Inspector-Accountants were advertised in December, 1931, and out of the applicants, 11 appointments were made in January, 1932, and one further selection was made in July, 1932, out of 11 persons appointed in January, 1932, two were discharged on 31st March, 1932, but were re-employed in July, 1932, along with one new candidate.

(b) Yes, if the Honourable Member is referring to the one appointment, or two re-appointments in July.

(c) Out of 12 temporary Inspector-Accountants appointed, three posts were given to the minority communities.

(d) Yes.

(e) and (f). As stated in reply to part (a) of the question the three appointments made in July, 1932, were part of the total appointments of 12 temporary Inspector-Accountants. Two of the three candidates had honours degrees and the third was a graduate belonging to the ministerial establishment of the province, who had specially distinguished himself in his work.

(g) Out of 126 posts, 29 are held by minority communities, 22 being held by Muslims.

Mr. Gaya Prasad Singh : Are Government aware that the Muslims form only about nine per cent. of the population in the province of Bihar and Orissa ?

Mr. M. Maswood Ahmad : We are about 12 per cent.

Mr. Gaya Prasad Singh : Not yet ; when Orissa has been separated, you may be.

Mr. M. Maswood Ahmad : Then we will be about 14 per cent.

The Honourable Sir Alan Parsons : I have not quite as much information about the population of Bihar and Orissa as my Honourable friend has.

Mr. M. Maswood Ahmad : The Honourable Member, in reply to part (a) of my question, has said 'No', will he kindly say in what papers advertisements were made and on what dates ?

The Honourable Sir Alan Parsons : I am afraid the Honourable Member must give me notice of that question.

Mr. M. Maswood Ahmad : The notice has already been given in part (a) of my question.

The Honourable Sir Alan Parsons : I think my Honourable friend could not hear my answer properly. In effect, my answer is this : there was an advertisement for 11 appointments in January and all the selections that were made from applicants who applied in view of that advertisement.

Mr. M. Maswood Ahmad : My supplementary question is still unanswered

Mr. Gaya Prasad Singh : Will Government also care to find out, if they so desire, the percentage of the income-tax paid by the Hindus and the Muhammadans in Bihar and Orissa ?

The Honourable Sir Alan Parsons : No, Sir. I am glad to say that we do not keep income-tax returns on a communal basis.

REPRESENTATION OF MUSLIMS IN THE INCOME-TAX DEPARTMENT, BIHAR AND ORISSA.

640. ***Mr. M. Maswood Ahmad** : (a) Will Government be pleased to lay on the table a statement showing :

- (i) the total number of Income-tax officers ;
- (ii) the total number of Inspector Accountants ;
- (iii) the total number of Muslim Income-tax officers ; and
- (iv) the total number of Muslim Inspector Accountants ;

in the Income-tax Department, Bihar and Orissa ?

(b) Do Government propose to issue special instructions to all the Heads of Departments subordinate to them to follow strictly the Government circular regarding representation of Muslims and other minority communities in their respective departments in the matter of appointments ?

The Honourable Sir Alan Parsons : (a) A statement is laid on the table.

(b) No. The Heads of Departments are required to follow the general orders laid down by Government. These orders prescribe that 1/3rd of the vacancies should be reserved for minority communities that are inadequately represented otherwise, but no percentage has been fixed for any particular minority community.

Income-tax Department, Bihar and Orissa.

Total Number of Income-tax Officers. (i)	Total No. of Inspector- Accountants. (ii)		Total No. of Muslim Income-tax Officers. (iii)	Total No. of Muslim In- spector-Accountants. (iv)	
	Permanent.	Temporary.		Permanent.	Temporary.
16 (Including 3 Assistant Income-tax Officers.)	11	12	2	2	2

SHIFTING OF KALPATHY-PALGHAT POST OFFICE, SOUTH MALABAR.

641. ***Mr. K. P. Thampan** : (a) Will Government be pleased to state why the Kalpathy-Palghat Post Office in South Malabar was shifted from the locality where it had remained for the last 32 years to another place ?

(b) Is it a fact that the public protested against its shifting and a deputation of respectable citizens waited on the Post Master General at Goty requesting him not to do so ?

(c) Will Government please state whether during the 32 years of its existence in the locality the department had received any petition from any one regarding the unsuitability of its location ?

(d) Will Government please state whether the Assistant Post Master General who was specially deputed to inspect the place, was of opinion that the old place was the best and so took a letter of consent from a landlord to put up a type building specially for the office ? If so, why were his recommendations over-ruled and the idea of erecting the building given up ? Will Government be pleased to lay on the table a copy of the Assistant Post Master General's report ?

(e) How long was the post office kept in the building now abandoned ? Will Government please state whether any officer of the department had condemned it at any time ; whether the landlord has failed to carry out the annual repairs or any alteration that was suggested to him and whether he demanded a higher rent ?

(f) Will Government please state whether the department thought that the rent was too much ? If so, was the landlord asked to accept a lower rate ? Were efforts made to find other quarters in the same locality ; if so, what and who were the persons approached ?

(g) What is the net saving per month now effected by this shifting ? What will be the expense to open an Extra Departmental Sub-Office at the site as is decided ? If, on the whole, it would be a loss to the department what is the justification for this change ?

(h) Are Government aware that the new post office is situated in the heart of the Brahmin *agraharam* which is practically inaccessible to the depressed classes and that no post master belonging to the Christian, Mohammedan or the Depressed Classes community can live in the building now selected for the office and by so doing Government have tied their hands in the choice of post masters for this office ?

(i) Do Government propose to direct the Post Master General at Madras or any senior officer to make a fresh enquiry and remove the office back to the old locality ?

Mr. T. Ryan : (a) to (i). Government have no information on the subject. The matter is entirely within the competence of the Postmaster General, Madras, to whom a copy of the question is being sent.

REMOVAL OF HIS OFFICE BY THE SUPERINTENDENT OF POST OFFICES, NILGIRIS, TO A BUILDING OWNED BY HIM.

642. *Mr. K. P. Thampan : Will Government be pleased to state :

- (a) whether it is a fact that the Superintendent of Post Office, Nilgiris, constructed a new building for himself and removed his office to it without obtaining the previous orders of the Post Master General ;
- (b) what rent he actually charged at first ; whether it was more than the rate sanctioned for better accommodation ;
- (c) subsequently when enquiry was made about it, whether the Municipal and P. W. D. authorities fixed a lower rate ; and
- (d) if the answer to part (c) is in the affirmative, what disciplinary action was taken against the Superintendent for this sort of profiteering at the expense of the department ; if no action

has been already taken, whether Government propose to make an inquiry into this discreditable transaction and take effective steps to avoid repetition of such cases ?

Mr. T. Ryan : (a) Yes.

(b) The rent charged was Rs. 115 per mensem which is the same as was previously charged for other accommodation whose suitability was questioned.

(c) Yes, different rentals were suggested but finally the Municipality assessed the rent at Rs. 150 per mensem if the building were taken on a monthly arrangement and at Rs. 115 per mensem if taken on a long lease.

(d) The case is under correspondence with the Postmaster General.

Mr. K. P. Thampan : With regard to part (c), may I know why the Government thought it necessary to make an inquiry about the rent charged by him ? Was it done *suo motu* by Government ?

Mr. T. Ryan : My information is and I think I am right in saying that some doubt arose as to whether the rent proposed was correct and a reference was made to the Chairman of the Municipality. The case, I may say, is still under further investigation as I am not yet satisfied with the circumstances connected with it.

Mr. K. P. Thampan : Will Government be pleased to tell the House the results of the investigation when it is over ?

Mr. T. Ryan : Yes, Sir.

ABSENCE OF RETIRING ROOMS AT THE MADRAS CENTRAL STATION.

643. ***Mr. K. P. Thampan :** Will Government be pleased to state :

(a) whether they are aware that there are no retiring rooms at the Madras Central Station at present and consequently, passengers, especially those going to the West Coast, from Calcutta and by the Grand Trunk Express are put to great inconvenience ; and

(b) if so, whether Government propose to give immediate instructions to the Madras and Southern Mahratta Railway authorities to provide two or three retiring rooms in the first storey of the Central Station by making slight alterations in the present building ?

Mr. P. R. Rau : (a) No, Sir ; Government were not aware of this till receipt of the Honourable Member's question.

(b) I am bringing the Honourable Member's suggestion to the notice of the Agent, Madras and Southern Mahratta Railway, for such action as he may consider necessary.

Mr. K. P. Thampan : Is not the Honourable Member aware that the West Coast Mail leaves Madras just a few minutes before the Grand Trunk Express is timed to arrive there ? Will Government therefore be pleased to direct that the West Coast Mail might be timed to leave a little late, so that passengers going by the Grand Trunk Express could avail themselves of the West Coast Mail of

the same day to go to their places without having to wait one full day at Madras ?

Mr. P. R. Rau : This fact was brought to my notice the other day by another Honourable Member from Malabar and I am writing to the South Indian Railway about it.

AUCTION OF FRUITS STALLS ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

644. ***Mr. K. P. Thampan :** Will Government be pleased to state :

- (a) whether it is a fact that the Madras and Southern Mahratta Railway has recently introduced the system of auctioning out fruit stalls on their railway stations ;
- (b) whether the State Railways have expressly refrained from calling for tenders for fruit stalls as the system is likely to detract from efficiency of service to the public ;
- (c) whether the Madras Railway User's Federation, in their memorandum, presented to the Financial Commissioner when he visited Madras, urged for the abolition of that system as the quality of stuff sold considerably deteriorated thereby ;
- (d) whether the Hubli Local Advisory Committee recommended the discontinuance of that system ;
- (e) whether on the Madras and Southern Mahratta Railway this system of auctioning out fruit stalls was once in vogue but was subsequently given up as being detrimental to public interests ; and
- (f) whether Government propose to direct the Madras and Southern Mahratta Railway to discontinue this system ?

Mr. P. R. Rau : (a) Government have no information of any recent change in the giving out of contracts for the sale of fruit at stations on the Madras and Southern Mahratta Railway.

(b) Government are not aware as to what precisely is the practice at present on State-managed Railways, as these are matters within the discretion of Agents.

(c) Yes, except that no reference was made in the memorandum to deterioration in the quality of the fruit sold.

(d) I have not been able to trace in the proceedings of the Hubli Advisory Committee any reference to the system of auctioning fruit stall, but at their meeting on the 13th July, 1932, the Committee were informed in regard to the question of food stalls and tea shops that no auction had been held but tenders had been called for in the case of contracts for the sale of tea and sweetmeats.

(e) Government have no information on the point, but I am prepared to accept the Honourable Member's statement.

(f) Government do not propose to interfere in the matter which is one for the Railway Administration to consider, and can suitably be

raised at a meeting of the Railway's Advisory Committee by any member of such Committee.

Mr. K. P. Thampan : Will the Honourable Member be pleased to send a copy of this question and answer to the Agent, Madras and Southern Mahratta Railway ?

Mr. P. R. Rau : Certainly, Sir.

Mr. B. Das : Will the Honourable Member kindly bear in mind this question and certain other questions asked previously on the floor of this House and see that the Railway Companies do not indulge in profiteering and that the fruit and tea stalls are used for the benefit of travelling public ?

Mr. P. R. Rau : I doubt, Sir, if any railway in India can be said to be profiteering now.

Mr. B. Das : Is it not a fact that certain railways are realising large licensing fees on foodstuffs that are sold in the railway stations ?

Mr. P. R. Rau : I am not aware of the exact facts on different railways, as I have already stated.

Mr. B. Das : Did I not call the attention of the Honourable Member on another day in a supplementary question and the Honourable Member promised me to look into it ?

Mr. P. R. Rau : I shall have to look up the proceedings of that day.

ALLEGED KICKING OFF OF A MILK POT BY AN ANGLO-INDIAN TRAFFIC INSPECTOR ON A STATION PLATFORM.

645. ***Mr. K. P. Thampan :** (a) Has the attention of Government been drawn to an article entitled "Milk pot kicked on station platform" at page 191 of the *Indian Railway Magazine* in its issue for July, 1932 ?

(b) Is it a fact that whereas the Station Master has been transferred as the result of the enquiry, the Anglo-Indian Traffic Inspector who actually kicked the pot has been let off scot-free ?

(c) Is it a fact that the Contractor wanted to proceed against the Traffic Inspector in a court of law but the District Traffic Superintendent of Bezwada refused permission for it ? If so, why ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

MERCANTILE COUPON TICKETS ON RAILWAYS.

646. ***Mr. K. P. Thampan :** (a) With regard to the issue of mercantile coupon tickets will Government be pleased to state :

- (i) how long the system was in force since its introduction ;
- (ii) why it was discontinued ;
- (iii) how many books of 1st and 2nd class were sold on each of the railways during the last three months before its discontinuance ;
- (iv) when it was reintroduced ;

(v) what the cost of the coupon books was before and what it is now ;

(vi) how many books were sold during the last three months on each of the railways since its reintroduction ?

(b) Are Government aware that both the South Indian Chamber of Commerce and the Madras Railway User's Federation urged the reduction of the cost thereof and the provision of interchangeability with all railways in their memorandum presented to the Financial Commissioner on the occasion of his recent Madras visit ?

(c) Are Government prepared to direct that the cost of mercantile coupon tickets be reduced for the 2nd class and they be made interchangeable with all railways ?

Mr. P. R. Rau : (a) (i) The system was introduced on the Madras and Southern Mahratta Railway in 1923 and on certain other principal Railways during 1926 and 1927. It was discontinued in 1931 on the Bengal Nagpur, Bombay, Baroda and Central India, East Indian, Great Indian Peninsula, Jodhpur and Nizam's State Railways.

(ii) The system was discontinued on account of certain abuses that had arisen, and because the Railways concerned were of opinion that the grant of this concession did not bring them any additional traffic.

(iii) The information is not readily available.

(iv) So far as information is available, it would appear that it was only on the South Indian Railway that the system was discontinued on the 1st June, 1931, and re-introduced on the 1st August, 1931.

(v) The cost of coupon books has varied from time to time on the different Railways. On the majority of the Railways issuing these books, the cost till about a year or two ago was Rs. 234-6-0 for a first class book and Rs. 117-3-0 for a second class book.

The cost now is as follows :

Railway.	First Class.			Second Class.		
	Rs.	A.	P.	Rs.	A.	P.
Bengal and North Western ..	205	0	0	105	0	0
Eastern Bengal ..	156	4	0	100	0	0
Madras and Southern Mahratta	300	0	0	160	0	0
Mysore ..	280	0	0	140	0	0
North Western ..	234	6	0	117	3	0
South Indian ..	280	0	0	140	0	0

On the Eastern Bengal Railway each book covers 2,000 miles of travel and on other Railways 3,000 miles.

(vi) The Agent, South Indian Railway has been asked to give the information required. It will be laid on the table of the House when it is received.

(b) The memorandum from the South Indian Chamber of Commerce did contain a reference to this, but not the memorandum from the Madras Railway Users Federation.

(c) The fixing of the price for these tickets is a matter for each Railway Administration to determine, and Government are not prepared to interfere. Interchangeability of tickets purchased on these coupons between all Railways is only practicable when the basis of charge is uniform. This is not the case at present.

REDUCTION OF THE NUMBER OF SALOONS FOR RAILWAY OFFICIALS.

647. *Mr. K. P. Thampan : (a) Has the attention of Government been drawn to an article entitled "Saloons and retrenchment" at page 180 of the *Indian Railway Magazine* in its issue for July, 1932 ?

(b) Is it a fact that Assistant Engineers on the Madras and Southern Mahratta Railway are allowed the use of saloons ?

(c) With reference to the recommendations of the Retrenchment Committee that the number of officers entitled to saloons should be reduced, will Government be pleased to lay on the table a statement showing what retrenchment has been effected in this matter on each of the railways ?

Mr. P. R. Rau : (a) and (b). Yes.

(c) The main recommendation of the Railway Retrenchment Sub-Committee was that no additions to the present stock of saloons should be made and replacements should be carefully considered. This recommendation has been accepted by Government. The subsidiary recommendations regarding pooling and reduction of use of special carriages by officers has been brought to the notice of railways.

RETRENCHMENT EFFECTED IN THE RAILWAY RATES COMMITTEE AND THE CENTRAL PUBLICITY BUREAU.

648. *Mr. K. P. Thampan : (a) Will Government be pleased to state whether any and, if so, to what extent effect has been given to the recommendations of the Retrenchment Committee in respect of (i) the Railway Rates Committee and (ii) the Central Publicity Bureau ?

(b) What was the monthly expenditure on each of these departments in July, 1931 and July, 1932 ?

(c) How many cases were referred to the Rates Advisory Committee in 1931 and how many have been heard and how many have been decided ?

(d) If any cases have been decided will Government be pleased to state the results of the cases ?

(e) Why was the office of the Committee removed from Calcutta and to what place was it removed ?

(f) Was any notice given to the public of such removal ?

(g) Do Government propose to abolish it altogether or reconstitute it and, if so, in what manner ?

Mr. P. R. Rau : (a) I would refer the Honourable Member to the Statement circulated to Honourable Members on the 4th November, 1931, and to further statement circulated with the Railway Budget papers in February, 1932, showing the conclusions to which the Government of India had come on the report of the Railway Retrenchment Sub-Committee, and the action taken or proposed to be taken on these recommendations.

(b) Figures of expenditure as recorded in the books for any one month will not give as correct an appreciation of the position as figures for the whole year, and, in any case, figures for July, 1932, are not yet available. The actual expenditure during 1931-32 on the Railway Rates Advisory Committee was Rs. 1,31,460 and on the Central Publicity Bureau Rs. 3,49,451. The budget estimate for 1932-33 for the Railway Rates Advisory Committee is Rs. 50,000 and for the Central Publicity Bureau Rs. 2,71,000. These estimates are not likely to be exceeded.

(c) and (d). One, which was withdrawn by the complainant, after the first hearing of the case. I may add that the services of the Committee were placed at the disposal of the Commerce Department for a period of about one month in connection with a complaint regarding the fares charged by certain steamer companies in Bengal, and that the sittings of the Committee were suspended temporarily for a period of about 5½ months when both the President and the Railway Member were on leave.

(e) The office was removed from Calcutta to Vizagapatam as a measure of economy.

(f) No. Notice was not necessary, as applications for cases to be referred to the Committee are required to be addressed to the Secretary, Railway Board.

(g) Government do not propose to abolish the Committee. They have recently re-constituted it by dispensing with the permanent Railway Member and by arranging for a Railway Member to be appointed for the hearing of each case referred to the Committee in the same way as a Commercial Member is appointed for each case.

Mr. K. P. Thampan : Did I understand the Honourable Member to say that there was only one case and that it was subsequently withdrawn ?

Mr. P. R. Rau : That was in 1931. I believe in the current year there are four or five cases already referred to them.

INCOME, EXPENDITURE, ETC., OF THE "INDIAN STATE RAILWAYS MAGAZINE."

649. ***Mr. K. P. Thampan :** With reference to the *Indian State Railways Magazine*, will Government be pleased to state :

- (a) the income from subscriptions and advertisements in the last official year ;
- (b) the expenses during the said period under the head (1) paper, (2) printing, (3) postage, (4) block making, (5) clerical charges, (6) editorial charges, and (7) miscellaneous ; and
- (c) how many copies are circulated in India, how many in England and how many in other countries ?

Mr. P. R. Rau : (a) Rs. 1,35,091.

(b) (1) and (2). Rs. 63,480, the charges for printing include the cost of paper.

(3) Rs. 960.

(4) Rs. 11,428.

(5) Rs. 2,424.

(6) Rs. 3,600.

(7) Rs. 42,846.

(c) Monthly average of 5,124 in India and 750 in other countries including England.

Mr. K. P. Thampan : May I know whether it pays its own way ?

Mr. P. R. Rau : It has been claimed that it does.

OLD THIRD CLASS CARRIAGES USED AS QUARTERS FOR STATION MASTERS ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

650. ***Mr. K. P. Thampan :** (a) Has the attention of Government been drawn to an article entitled " Old third class carriage is Station Master's quarters " at page 197 of the *Indian Railway Magazine* in its issue for July, 1932 ?

(b) Is it a fact that station masters are asked to live in old third class carriages at Yerramappalli, Munamuka and Kaduvankundru on the Madras and Southern Mahratta Railway ?

(c) How long have these stations been in existence ?

(d) What has been the income from each of these stations since the dates of inception ?

(e) Is it a fact that at Munamuka station a station master was murdered a few years back ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

PURCHASE OF KIRKEND COAL.

†651. ***Mr. A. H. Ghuznavi :** (a) Is it a fact that Maharaja Kashmir-bazar's Ekra (Gillanders) 12, 13 and 14 Seams, all Selected Grade, offered 1,44,000 tons at Rs. 3-12-0 a ton but only 42,000 tons were taken from Ekra while I. N. Chander's Kirkend coal (17,000 tons) was taken at the same rate ? Did the latter contain 12, 13 and 15 Seams of which 12 Seam was Grade I and was it open to him to supply only 12 Seam coal ?

(b) Is it also a fact that even a higher price, viz., Rs. 4, was paid for the 12,000 tons from the New Manbhumi Coal Company's Gazlitan Colliery ? Did it contain 13, 14 and 15 Seam of which 13 and 14 Seam were Grade I coal ? Is it a fact that Central Kirkend Coal Company's Central Kirkend (12, 13, 14 and 15 Seam) was favoured with an order for 24,000 tons at Rs. 4-2-8 and of this 15 Seam was Grade I ?

(c) Will Government please state the reason why Mr. Whitworth or the Board preferred to take Grade I coal when Selected Grade coal could be had at the same price and why a higher price was paid for inferior coal ?

PURCHASE OF LOYABAD COAL.

652. ***Mr. A. H. Ghuznavi :** (a) Is it a fact that 50,000 tons (12, 13, 14 and 15 Seam) of Loyabad coal of Burrakur Coal Company, Limited, were bought at Rs. 4-3-0 a ton and 12,000 tons (12, 13, 14 and 15 Seam) of Mudidih at Rs. 4-3-0 and of these 12, 13 and 14 Seam were of Selected Grade and 15 Seam of Grade I ?

†For answer to this question, see answer to question No. 600.

(b) Have the Board any means of ascertaining what proportion of Selected Grade coal the mixture contained and, if the proportion was not fixed, were not the tenderers at liberty to supply any quantity of Grade I coal which could be had at Rs. 2-10-0 a ton ?

(c) Is it not the intention of Government that coal from different seams should be tendered for separately ? Does not the form of the tender make this clear ?

Mr. P. R. Rau : (a) Yes, but as the Honourable Member has already been informed, railways do not purchase to the Grading Board classifications.

(b) As I have already explained the checking of supplies from different seams is made by underground and surface inspections and by examination of records of the loadings from the supply from separate seams. The supply from each seam is, according to the custom of the trade, made in equal proportions unless otherwise specified in the tender or contract.

(c) In the general rules and directions for the guidance of contractors which is incorporated in the tender form, it is definitely provided that when the coal will be taken from more than one seam, the contractor must state the name and number of different seams, give an analysis of coal from each seam and show proportions of coal that will be supplied from each seam.

PURCHASE OF COAL FROM THE KUSUNDA NAYADI COAL COMPANY, LIMITED.

653. ***Mr. A. H. Ghuznavi :** Is it a fact that the coal (15,000 tons) from the Kusunda Nayadi Coal Company, Limited, which was accepted at Rs. 2-12-0 a ton was of a mixture of 10, 11, 12 Seam of which 10 Seam is Grade II while 11 and 12 Seam are Grade I ? Was it stipulated in what proportions the coals of these three Seams would be mixed up and, if not, what steps were taken to ensure that the tenderer did not supply the lower Grade although he was paid the rate of higher Grade ? Who was responsible for such transaction ?

Mr. P. R. Rau : 1. The answer to the first part of the question is in the affirmative.

2. The proportion was not stipulated in the contract, but in the absence of any stipulation, the proportions of the different varieties, as I have already explained, be taken as equal.

3. The steps to be taken to ensure that the tenderer did not supply an undue proportion of low quality coal consisted of careful inspection.

PURCHASE OF VICTORIA COLLIERY (RAMNAGAR SEAM) COAL.

†654. ***Mr. A. H. Ghuznavi :** (a) Will Government state the reason why the offer of 72,000 tons from the New Birbhum Colliery Company's Victoria Colliery (Ramnagar Seam) at Rs. 4-12-0 was accepted in full while only 20,000 tons of the Bengal Iron Company's Ramnagar Colliery were accepted out of 60,000 tons of coal of the same Ramnagar quality although it was offered at Rs. 4-4-0 per ton ?

†For answer to this question, see answer to question No. 600.

(b) Is it a fact that 36,000 tons of Karamchand's Begunia, was offered at Rs. 4-6-0 and that it yields better quality coal than Ramnagar's but only 15,000 tons were accepted, and 72,000 tons in full of inferior quality were taken at a much higher rate ?

PURCHASE OF ANGRAPATRA COAL.

†655. *Mr. A. H. Ghuznavi : (a) Is it a fact that 12,000 tons of Union Coal Company's Angrapatra Coal (14 Seam, Grade I) were purchased at Rs. 4 and although Angrapatra Colliery Company offered 36,000 tons at Rs. 2-10-0, only 12,000 tons were purchased from them ?

(b) If so, will Government please state the reason why Rs. 4 per ton was paid for the same quality of coal when it was available at Rs. 2-10-0 per ton ?

PURCHASE OF GHUSICK AND MUSLIA COAL.

656. *Mr. A. H. Ghuznavi : Is it a fact that 30,000 tons of Ghusick and Muslia, etc., coal were accepted at Rs. 3-8-0 ? Will Government state what this *etcetra* signify ? Does it include the Niga quality of the Ghusick Seam ? Is not the Niga quality far inferior to the Ghusick quality ?

Mr. P. R. Rau : The term 'etcetra' denotes the names of other collieries included, *viz.* :

New Samra and Radhamadhabpore.

The purchase does not include Niga quality coal.

ENFORCEMENT OF CONTRACTORS OF THE TERMS OF TENDERS FOR SUPPLY OF COAL.

657. *Mr. A. H. Ghuznavi : With reference to the *terms of the tender*, *viz.* :

"In the event of the Contractor's failure to deliver any coal the Contractor shall pay to the Railway a sum equal to 1 per cent. on the total contract price of the coal which he shall have so failed to deliver for every day not exceeding ten days during which such failure shall continue."

will Government please state if Mr. Whitworth has enforced this condition in the case of any defaulting contractor ?

Mr. P. R. Rau : There has been only one case brought to the notice of the Railway Board of recent years, where there has been a case of such failure. The condition could not be enforced as the Colliery had ceased working in the meantime.

ENFORCEMENT ON CONTRACTORS OF THE TERMS OF TENDERS FOR SUPPLY OF COAL.

658. *Mr. A. H. Ghuznavi : (a) With reference to the clause in the tender form for the supply of rail-borne coal, *viz.* :

"In the event of such failure continuing for more than ten consecutive days the Agent may, after the expiry of such period either terminate the contract by Notice in writing to the Contractor or without any Notice purchase coal to the extent of the quantity in default from any source he may select and the Contractor shall pay to the Railway the amount of any loss which may be incurred by reason of the price paid on such purchase being above the contract price and the amount of any other loss or expenses which may be occasioned by the Contractor's failure to deliver."

will Government state whether instead of enforcing this clause to penalise failures on the part of tenderers in delivering coal within the stipulated

†For answer to this question, see answer to question No. 600.

time, arrear quantities have been taken from tenderers even years after at the original contracted rate when market prices of those coals have gone down much below that rate ? If so, why and under what rule ?

(b) Are Government aware that tenderers withhold delivery of the contracted coal in the event of the market going up and await a favourable time when the price may decline to their profit delivery of coals beyond the stipulated time even is accepted ?

Mr. P. R. Rau : (a) Arrears on contracts are taken in those cases when the arrears accrue owing to the failure on the part of the Railway to take delivery of the coal contracted for and, in exceptional cases, when the Agent is satisfied that the contractor was hindered in the supply of the coal by circumstances not within his control.

(b) No such case has come to the knowledge of Government but the possibility does exist.

CLASSIFICATION OF SAMPLES OF COAL BY THE GRADING BOARD.

659. ***Mr. A. H. Ghuznavi :** (a) Is it a fact that the original reports of the Government Test House at Alipore on the analysis of samples of coals taken from collieries for the purpose of classification by the Grading Board are not placed on the table at the meeting of the Grading Board but that the results are announced by Mr. Whitworth from chits in his possession ?

(b) Are not the Colliery Proprietors who have to deposit fees in advance for such analysis entitled to know what the original reports are, and if so, why are they denied this privilege ?

Mr. P. R. Rau : (a) No. The original report of analyses from the Government Test House are read at meetings of the Grading Board and are available to the Members of the Board.

(b) Copies of analytical reports are supplied to Colliery Proprietors whose coals have been graded when asked for.

ABSENCE OF WAITING ROOMS AT MANCHESWAR, BENGAL NAGPUR RAILWAY.

660. ***Mr. B. N. Misra :** (a) Are Government aware :

(i) that there is no waiting room for the first, second, intermediate or third class passengers at Mancheswar, Bengal Nagpur Railway ; and

(ii) that much hardship is experienced by the passengers ?

(b) If the answer to part (a) is in the affirmative, are Government prepared to advise the Bengal Nagpur Railway to remove such grievances ?

Mr. P. R. Rau : With your permission, Sir, I propose to reply to this and question No. 661 together. Government have no information as to whether there are waiting rooms at the stations referred to. But I am sending a copy of the Honourable Member's questions and of this reply to the Agent, Bengal Nagpur Railway, for such action as he may consider necessary.

[Mr. S. C. Mitra.]

purchase and the communication that we received from the Indian Mining Federation has been supported also by the European Mining Association. I say this, of course, subject to correction from Mr. Morgan or any other member of the European Group who are acquainted with it, whether the European Group of coal-owners of the Indian Mining Association also approve of the resolution of the Indian Federation that they have not very much to criticise against the present policy of purchase of coal. If that is so, I, as a layman, do not think that unless there is some agitation or dissatisfaction amongst the colliery owners who are vitally concerned in this affair, this House will be well advised to go into that inquiry at all. Of course it has been said by my friend, Mr. Ghuznavi, that this 'Mining Federation' represents only about 100 coal-owners out of 795; but my answer to him is this; at least they represent 100, but Mr. Ghuznavi can speak only for the three companies of which he is a Director; they may not be in a moribund condition as Mr. Sen puts it; but in any way we do not find that he is in a better position to speak for all these 700 people without any specific authorisation from them.

Mr. A. H. Ghuznavi (Dacca *cum* Mymensingh : Muhammadan Rural) : I shall read out at a later stage the telegrams which I have received.

Mr. S. C. Mitra : So far as I have been able to ascertain the views of the coal-owners in Bengal, I find that, more or less, they were satisfied with the present policy; and, as a matter of fact, from inquiry from other gentlemen as well I can say here—even my Deputy Leader, Sir Cowasji Jehangir told me once, while giving large orders, while he was a Member of the Government of Bombay, for the Sukkur Barrage, he found from direct evidence and from inquiries that there was nothing wrong or shady with the grading or ordering of coal from different companies by Mr. Whitworth. Of course Sir Cowasji is here and, if there is an opportunity, I think, he will speak with greater authority.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Which year was that ?

Mr. S. C. Mitra : Up till about the year 1930, as I understand from Sir Cowasji Jehangir himself. As I said, these are the reasons why I do not like to press for any inquiry as regards the first part of Mr. Ghuznavi's Resolution, that is, the policy of the purchase of coal. But, as regards the second part, the management of the State collieries, I am on stronger ground. Unlike Mr. Ghuznavi I do not make any allegations against any person; but, as a matter of fact, I find that State collieries are not managed perhaps in a very economical way as it appears from their cost of production. The question was taken up several years before in the Public Accounts Committee; my Honourable friend, Mr. Neogy, raised the question and the Honourable Mr. P. R. Rau replied—I am referring to the Accounts of 1927-28 at page 317 : he says :

"We hope to have our departmental collieries on a cost accounting basis this year, but it will not meet Mr. Neogy's point as regards other collieries as we cannot impose upon company-managed railways our system of accounts; once we start a real commercial system of accounting in our railway collieries, other railways will probably follow suit; but till we set our own house in order we cannot really compel others to do so."

That was the reason why, year after year, the Public Accounts Committee was pressing that point of view to find out the actual cost per ton in the State-managed collieries and compare them with the rate that prevailed in the market. I know that the accounts might be ready by this time, but it has not been placed before the Public Accounts Committee or the Assembly before this time; but there are other reasons why I raise this issue; there are specific allegations in Mr. Ghuznavi's speech and his questions which I shall develop later on. But one point I would like to know is this. How is it that for all these years there was no public tender called for from all these State collieries and why the same firm was given the contract in a large number of cases? I find that my friend, Mr. Ghuznavi, gave a few short notice questions but unfortunately Government did not see their way to answer them. I will read some of them:

"1. Will Government lay on the table a statement showing year by year what quantities of coals were raised from each of these collieries since their purchase, and giving the cost of raising?"

2. Did Government ever call for public tenders for raising contracts, and if so, when?"

3. Will Government state the names of persons or firms to whom raising contracts had been given since the collieries were purchased, stating the rates at which they were paid and mentioning the period for which the contracts were given?"

It has been said that ever since the purchase of the State collieries, no tender was called for raising contracts. Taking the Government purchase on an average of 20 lakhs tons a year and assuming that coal is purchased at the rate of Rs. 1-8-0 per ton, is it not amazing that public tenders are not called for raising contracts when the whole business involves an expenditure of nearly 30 lakhs per year? Then, Sir, there is a further allegation that this year alone they have asked for public tender from only one colliery, and that is the Argada colliery, and, by so inviting the public tender, they have got a rate of Re. 0-13-0, while, for the very same colliery, the rate used to be Rs. 1-6-0 per ton in previous years. If that is a fact,—of course, I speak subject to correction,—then certainly there is very good ground that this whole matter should be thoroughly inquired into. I understand from some of Mr. Ghuznavi's questions that the rate which was charged for raising in State-owned collieries varied from Re. 1-12-0 to Rs. 2 all these years continuously for the last 12 years in all contracts with Mr. A. L. Ojha, and also that these raising contracts are confined only to Cutchee contractors and that nobody else outside their community ever got a contract. All these facts can be found in the various questions raised by my friend, Mr. Ghuznavi. I found particularly to-day even Government did not answer about 20 to 30 questions put by my friend, Mr. Ghuznavi, and that raises a presumption that there is something wrong somewhere, and the whole question requires a thorough investigation.

Now, Sir, speaking on this Resolution, I submit that the present policy of the Government in purchasing coal from the Indian collieries is a sound policy. Government were driven to have their own collieries during the war, because, as a measure of insurance, they found it was necessary that in times of emergency, they should depend upon their own collieries, and also it is likely that there might be big combines amongst the colliery owners, and that they might dictate their own

[Mr. S. C. Mitra.]

rates, in order to save themselves from these combines. Government decided to have recourse to own collieries themselves, but that is no reason why these collieries should not be worked economically. I am afraid, Sir, my time is up.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member has got a minute more.

Mr. S. C. Mitra : Thank you, Sir. It has been represented by the Indian collieries that from the financial point of view the Jarangdih colliery of Bombay, Baroda and Central India Railway and Madras and Southern Mahratta Railway seems to be a complete failure in actual working. In 1930-31, the latest year for which figures are available, the average working cost in this mine was Rs. 5.6 per ton, and while the capital expended till 31st March, 1931, was over Rs. 64 lakhs, the output was well within a lakh of tons. In Religara, though Rs. 19 lakhs was spent up to 31st March, 1931, and Rs. 44 lakhs was spent on two mines in Talchar up to the same date, none of these collieries contributed a single ton of coal for consumption of the railways. There are very good reasons that some of these collieries might be given up, and, as regards the others, they should be worked economically. For these reasons, I move this amendment for an inquiry.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I rise to support the amendment moved by my friend, Mr. S. C. Mitra. Being an old Member of this House and also happening as I do to be an Engineer and also to know the various shortcomings of my professions and the temptation that my profession is liable to be faced with, whether in Government service or private service, and knowing also, as I do, certain scandals in the collieries and in the coal purchase system that happened prior to my becoming a Member of this House, I very much welcome the present inquiry. In every discussion on the floor of this House I like that there should be decorum and that there should not be unnecessary accusation, and I am grateful to my friend, Mr. Ghuznavi, for one reason. He has arrested the attention of the House to a state of things that existed before 1923, and my friend, Mr. Mitra, in quoting certain chapters from the report of the Public Accounts Committee has only just added to that suspicion and the purpose of this House will be served if my friend on the Treasury Benches accepts this inquiry. I agree with Mr. Mitra that Government had to have recourse to State collieries as they did not want to pay high prices that private owners charged them during and after the war, but whether these collieries can be worked on a commercial basis at present or not is a point on which the Government have not come to a definite decision, nor can we, on this side, come to a decision unless there is a mixed committee of officials and non-officials to inquire into the administration of State-owned collieries and to see whether those collieries should be kept as a reserve to meet the competition of the markets and to meet extraordinary demands in time of war that might arise in future. My friend, Mr. Mitra, raised certain issues about raising contracts in the State collieries. I have no definite knowledge in the matter, but I would be glad to know from the Government their views on the matter, and, if the Committee

is appointed, it can go into that aspect of the question and see whether any jobbery exists at present.

As for the coal contracts, I have the evidence on one side, the expression of opinion of my friend, Mr. Ghuznavi, and then I have the views of my friend, Mr. Sen, whose opinion I always respect. We have heard a section of opinion saying that the present system of coal contract is good, while another section is complaining that things are not as they should be. But when there are parties asking for contracts and favours there may be jobbery and I would ask the Government to inquire not through this Committee but departmentally whether those scandals that existed at the time of the Munitions Board exist to-day, whether there is any chance of jobbery and whether there is any chance of wastage of public funds. If high Government officials like the Financial Commissioner and the Honourable Member for Railways will go into it, I should be satisfied. I recollect the speech which my Honourable friend, Sir George Rainy, made on the floor of this House on another occasion, but I wish only to make one observation. 1920-21 is not far away. It is only ten years. Although the observation was made that Mr. Ghuznavi had brought out skeletons from the cupboard and placed them before the House, I would like to point out that the situation which existed in 1920-21 may exist to-day and the public is very suspicious. When I came first in this House in 1924, I remember various questions being asked on the floor of this House about the scandal known as the Church scandal on the East Indian Railway. I do not like my friend, Mr. P. R. Rau, or my friend, the Honourable Sir Frank Noyce, who deputises for the Railway Member or Sir Alan Parsons to brush aside the criticisms as incidents of the past. What we aim at is that such scandals should not be repeated again. With these observations I support wholeheartedly the amendment moved by my friend, Mr. S. C. Mitra.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : I attended a course of lectures on the art of making debates and the lecturer pointed out that when you have to meet a very strong argument, you must always say that it is irrelevant. Last time when we were discussing the question of railways I pointed out that the railways were a losing concern and my argument was brushed aside by the Government Member in charge by saying that it was irrelevant. I am afraid the same argument may be used to-day and that all the criticisms that we bring forward may be disposed of as irrelevant, instead of replying to them.

I may point out that I do not belong either directly or indirectly, explicitly or implicitly, to any coal concern. The only interest I have is that I am a member of the Governing Body of the School of Mines. That is the only interest I have in the coal mining industry.

Mr. B. Das : Is the Chief Mining Engineer your colleague ?

Dr. Ziauddin Ahmad : I do not know. I was not introduced to him. My Honourable friend Mr. S. C. Sen may be a fortunate person in belonging to a group known as the pact group and my Honourable friend on the other side may possibly be unfortunate in not belonging to the pact group. I belong to no group. I stand here as a representative of

[Dr. Ziauddin Ahmad.]

the tax-payers to safeguard the interests of the public. My friend Mr. Sen pointed out that the charges levied against Mr. Whitworth were not proved. We are not here a committee of inquiry to prove or disprove charges. We are not sitting here as a court to collect evidence and find out whether a particular person is or is not guilty. We are here simply to discuss the principles and to discuss the administration.

My attention was first drawn to this question by reading the report of the Public Accounts Committee and they pointed out that the balance sheet of the collieries owned by the railways were never published. I repeatedly drew the attention of the House on every occasion when I had a chance to speak on the railway problem and asked the Railway Member 'for goodness' sake tell us whether the State collieries are a paying concern or not and for goodness' sake present us with a balance sheet so that we may be able to decide whether it is to our advantage to maintain these State collieries'. In reply to a question, Sir George Rainy said last time, if I remember right, that the balance sheet was seen by some business men. I hope that the Honourable Member for the Railways may lay the balance sheet shown to business men on the table and distribute it to every Member of the Assembly and if such a balance sheet is not circulated, then we will be forced to draw the inference which this fortnightly journal called *Business* has drawn. It says (page 4) :

"The cost of coal per ton is estimated to be Rs. 4-13-0. The same quality of coal which is produced by the State collieries can be had in the market at Rs. 2 or Rs. 2-4-0 a ton, showing a loss of Rs. 52 lakhs 50 thousand. That is about half a crore of rupees."

This paper further points out that even if it is considered prudent to work these State collieries, on no account should the tax-payer be saddled with the loss of about half a crore every year.

Here are the charges publicly levelled by one Honourable Member and those charges are reproduced in this paper which says under an article called "Contract without Tender" :

"What makes the Chief Mining Engineer deviate from the general rule in the case of these contracts is a mystery which it should be the earnest endeavour of every tax-payer in India to solve. Because, after all, any loss that the Railways may incur in this respect ultimately falls on the shoulders of the already over-burdened tax-payers."

It ends by saying :

"An inquiry into these allegations is urgently required and we hope, considering the importance of the subject, the Railway Board will lose no time in instituting an urgent and shifting inquiry into them."

As I said, I am not here to bring any charge against any individual. I am here to-day to discuss and criticise the administration and not an individual, and I say that the time has now come when we should look carefully into this administrative business and try to find out a workable plan. Here is one gentleman who is responsible for the inspection of the mines. He has got a great hand in grading the coal, and he is really the administrator of the State collieries so far as coal is concerned, and he also purchases coals for the railways and other departments, and in addition to this, he is also allowed to charge fees !

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I think it has already been pointed out that Mr. Whitworth is not responsible for the inspection of any mines other than railway collieries. There is a Chief Inspector of Mines for that purpose.

Dr. Ziauddin Ahmad : I understand that he does not inspect all the mines but the mines connected with the railways ?

The Honourable Sir Frank Noyce : These are only a very small proportion of the total number.

Dr. Ziauddin Ahmad : Sir, as far as this coal business is concerned, the Chief Mining Engineer is practically all in all. He is *Kuza, Kuza-gar wa Gile Kuza*. That is, he is the glass, he is the maker of the glass, and he is himself all the materials necessary for making the glass. Sir, this concentration of power in one man in my opinion is very undesirable and we should try to reform our system of organization. In the first place, I would rather consider very carefully whether the railways should administer the mines at all. If we decide that the State should continue to run the administration of mines, then, in my opinion, those mines ought to be transferred to the Department of Industries. Now the Railway Board cannot claim to administer the mines only on the ground that they require coal for running their locomotives. They might as well take charge of all the forests in India on the ground that they want some sleepers for the railways. They may purchase what coal they like, but the administration of those things is not really a proper concern of the railways, and, if they decide to have the administration in their own hands, then they should set up separate managing board. But, to my mind, it is very desirable that the administration of the State mines, if these are to be run as State mines, ought to be under the administration of the Department of Industries. My own strong opinion, however, is that in this matter the State ought not to run any collieries at all. They ought to be left to private concerns which should offer their tenders to the Government, and Government should go into the open market and purchase these coals from any colliery which may be willing to offer them the best possible terms.

Mr. N. M. Joshi (Nominated Non-Official) : Why ?

Dr. Ziauddin Ahmad : My friend, Mr. Joshi, asks, " why " ? My answer is that under present administration the Government cannot even tell us and have not told us whether the collieries, which they are administering, are or are not a paying concern.

Mr. N. M. Joshi : We are here for the purpose of seeing whether that is so or not ?

Dr. Ziauddin Ahmad : The Honourable gentleman may give his that if they are to be administered at all by the Government, which I doubt very much, as in my opinion the State ought not to compete with private enterprise, they should be administered by separate board under the Department of Industries.

Some Honourable Members : Why ?

Dr. Ziauddin Ahmad : The Honourable gentleman may give his reasons. I personally believe that the State ought not to maintain

[Dr. Ziauddin Ahmad.]

colliery of their own, but if it be decided to have State-owned collieries, then they ought to be run not by the Railway Board but by the Department of Industries who should administer under proper supervision by a separate board so that a balance sheet may always be shown and this ought not to be mixed up with other expenditure. Then the third point concerns the purchase of coal. This is really a very delicate item, and I would never trust any one individual, however important and however wise that man may be, to give tender himself. I would always have these tenders considered by a Board consisting of three persons, all officials, and I would never associate any non-officials for the selection of tenders ; and these three persons should be the (1) the Director of Stores—because, he is a very responsible officer, (2) then the Chief Commissioner of Railways, and (3) I would like to have an officer from the Finance Department so that he may keep every one of them on the right path and in the right direction. After all it is the Finance Department which is in reality most concerned ; of course I would not like to have the Honourable the Finance Member himself, but any of his Secretaries can represent him. Tenders should be advertised, properly scrutinized and afterwards selected by a Board about which no suspicion may exist. I am afraid, if the system is continued as at present, and no changes are made, then the public confidence about the coal business, which is already shaken, will disappear altogether. Sir, this journal called *Business* and certain papers in my hand implicate a large number of men, by insinuation, in these purchases. Of course I do not like to subscribe to such accusations, but certainly from the figures given to us I think a case has been made out for an inquiry. Even this morning when I put a question to the Honourable Member of the Railway Board about the purchase of coal, I said—and I think he admitted this also—that the Government paid Rs. 3-8-0 per ton for coal, the market value of which was Rs. 2 and Rs. 2-4-0, there was no satisfactory reply. Now I have not got the total quantity of coal which was produced in this manner, otherwise I would have calculated the loss which we the poor tax-payers have sustained in one undertaking alone. Therefore I would like to point out very explicitly once more that we are not here to bring charges against any officials connected with the railways. We are only considering the administrative machinery which really is supervising the whole business, and I strongly believe, Sir, that the machinery is defective, and that it is for the Government to make inquiries and to improve that machinery. They ought to provide a separate machinery for the administration of their own mines, which, in my opinion, should be under the Department of Industries or under special board, but there should be a strong supervision over these mines and there should also be better arrangements for the purchase of coal for the railways or other Departments ; and as regards the inspection of coal, that should not be the business of those persons who either control the mines or purchase the coal. An entirely third agency ought to be utilised for the grading of coal and also for the inspection of mines. The Chief Inspector of Mines is already doing this work. These three authorities ought to be quite distinct from one another, and it is not desirable to combine all these businesses into one, as, by doing that, you create a situation which no human being in this world can face

and do justice to it. In fact the office of Chief Mining Engineer should be abolished. Sir....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member's time is up.

Mr. P. R. Rau (Financial Commissioner, Railways) : Sir, it was with feelings of great disappointment and pain (*Voices* : "Louder, please")—it was with feelings of great disappointment and pain that I listened to my Honourable friend's speech in moving this Resolution. I had expected that he would give us something more substantial than the accusations that he made in this Assembly last March—accusations which have been described by my Honourable friend, Mr. Sen, as wild, vague and wandering ; especially, after making our flesh creep by saying that he had carefully investigated the problem after he had gone back to Bengal and was going to make startling disclosures in this House, I was very surprised that the only disclosures he made were telegrams or letters from people whose names he would not disclose. Now, Sir....

Dr. Ziauddin Ahmad : May I point out that he may read the paper called *Business*, and that all the accusations are there ?

Mr. P. R. Rau : Sir, I have read that paper many times. Now, Sir, I would just like to mention to this House that Mr. Whitworth has been holding the office of Chief Mining Engineer since 1921, and so far as I know, this is the first occasion on which anything has been said about his conduct. He has been the ex-officio President of the Coal Grading Board and President of the Soft Coke Committee and I would remind the House that in 1925 and in 1929, when the respective Acts were under the consideration of the House, it had sufficient confidence in the Chief Mining Engineer to make him ex-officio President of these two bodies. I have in my possession resolutions passed by both these bodies at a special meeting convened in the absence of the official President recording an appreciation of his work and the practical benefit resulting to the coal trade in general and soft coke industry in particular. The Indian Mining Federation and I believe the Indian Mining Association, which are the representative Associations of the trade, have not taken any part in these allegations as yet.

Dr. Ziauddin Ahmad : May I point out, Sir, that the Federation represents only 12 per cent. of the mining interests.

Mr. A. H. Ghuznavi : It represents only 5 per cent.

Mr. P. R. Rau : I think it is open to the other members of the Coal Grading Board to join the Federation and thereby get the control of that body rather than accuse it from outside. The Indian Mining Federation sent a telegram in February last dissociating themselves entirely from the accusations made against Mr. Whitworth and they have only recently reiterated it in a circular which they have sent round to all the Members of the Assembly. I am quite sure that in making these accusations Mr. Ghuznavi has no personal animosity against Mr. Whitworth but he is merely doing what he conceives to be his public duty.

Mr. A. H. Ghuznavi : Thank you.

[Mr. P. R. Rau.]

I turn now to the amendment of my Honourable friend, Mr. Mitra, about the State Railway collieries. Now, as regards the question of commercial management, if railways were run on commercial lines, that is to earn the maximum amount of profit for railways, the immediate result would be that all private collieries would have to reduce their prices. Some of them will have to close down. The State Railway collieries can at once produce as much coal as is required for railways. It is in the interest of private collieries in India primarily, and ultimately of course with the idea that we ought not to see them all closed down, that we have for the present reduced the output so considerably. But the House must recognise that so long as we own those collieries, interest on capital has to be paid, the minimum royalty has to be paid and staff maintained to keep the colliery from flooding and to look after the plant. Even if we close down the collieries a certain amount of expenditure will be involved unnecessarily.

It has also been pointed out that we have not placed the balance sheets of these collieries on the table. I know my Honourable friend, Dr. Ziauddin Ahmad, is a great student of railway affairs, but his speech made me wonder whether he ever read the pink books placed before the House every year.

Dr. Ziauddin Ahmad : Yes, I do read them, and very regularly.

Mr. P. R. Rau : The balance sheets containing the profit and loss accounts for the collieries have for the last three years been contained in the pink books. I know that the Public Accounts Committee have suggested a special form in which these accounts have to be placed before this House. My Honourable friend Sir Alan Parsons hoped to place the figures for 1931-32 before the Public Accounts Committee, but we have gone one better and we hope to place before the Committee this year balance sheets for 1930-31 with a special trading and profit and loss account and coal production account.

Now, Sir, as regards the committee of enquiry which my Honourable friend suggests.....

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : The allegation against the Railway Board is that the raising cost which was Rs. 3-4-0 compared unfavourably with the market rate of Rs. 2 to Rs. 2-4-0.

Dr. Ziauddin Ahmad : I want to be told whether it is hoped to....

Mr. P. R. Rau : If Honourable Members continue to interrupt me like this, I hope you, Sir, will allow me some more time to answer all the points raised already. I find that the cost in 1930-31 was, taking the bare cost of production, Rs. 2-9-1 in Kargali, Rs. 2-9-11 in Bokaro and Rs. 3-6-3 in Giridih. Taking the all in cost, including interest, sinking fund and all charges that the ingenuity of our Controller of Railway Accounts could consider as included in cost, the figures are I believe Rs. 3-4-8, 2-13-6 and 5-1-0 respectively.

Finally, as regards this question of committee of enquiry suggested by my Honourable friend, Mr. S. C. Mitra, I would suggest that the Public

Accounts Committee is seized of the matter and the Public Accounts Committee, as everybody knows, is composed almost entirely of non-officials of this House. It seems to me that this is one of the functions of the Public Accounts Committee, and I, for one, do not consider that there is any advantage in having a separate committee of this House to look into these matters. The other day, my Honourable friend, Mr. Joshi, in connection with the Resolution relating to Tatas pointed out that the House was asked to pass a vote of censure on the Tariff Board. I suggest that if you accept this motion of my Honourable friend Mr. Mitra, you are passing a vote of censure not only on the Railway Board, but on the Public Accounts Committee and I do not think that either of these bodies deserve this censure. Lastly I may point out that the present arrangement for examining these coal tenders is exactly what my Honourable friend, Dr. Ziauddin Ahmad, suggests. These tenders are all considered by the Chief Commissioner of Railways and the Financial Commissioner, Railways, and Mr. Whitworth is only an Adviser. He is, and will continue to be, the technical adviser of the Railway Board, but he has never been and he will not be allowed to be the final arbiter in this matter. I do not see what advantage could be gained by altering this procedure at the present time. (Cheers.)

Mr. G. Morgan (Bengal : European) : I rise to make a few remarks against the original motion and also the amendment. I cannot support either the one or the other. I am not taking up any position as regards the allegations made by my Honourable friend, Mr. Ghuznavi. I rise to put forward the views of the interests which I represent and my Honourable friend, Mr. Mitra, definitely asked me whether I will be able to put forward that view. That view is, that so far as the Indian Mining Association is concerned, they desire a continuance of the present arrangements with a short proviso, *viz.*, on the understanding that the recommendations of the Chief Mining Engineer are approved by the Railway Board, and fulfil the requirements of the local Superintendents. I happen to know something about the scrutiny of the tenders and what my Honourable friend, Mr. Rau, has just stated is perfectly correct, and so far as my knowledge goes, which relates to last year's tender, the tenders were scrutinised by the Financial Commissioner and the Chief Commissioner, the Financial Commissioner then being my Honourable friend, Sir Alan Parsons. I can give no support to the proposal put forward by my Honourable friend Mr. Ghuznavi. We are perfectly satisfied with the present arrangement and provided the Railway Board exercises proper supervision, that is what the Indian Mining Association desires. I understand from my Honourable friend, Mr. Mitra, that the Indian Mining Federation also takes that view.

With regard to the amendment of my Honourable friend, Mr. Mitra, I am sorry I cannot support that either, not exactly for the reasons which Mr. Rau has put forward, namely, that it is a vote of censure on the Railway Board, but I think a committee of this description is absolutely unnecessary. If any specific enquiry is to be made, I would accept the suggestion made by the Financial Commissioner, namely that the Public Accounts Committee should be instructed to go into this question at once. There is only one thing which I should like to ask my Honourable friend, Mr. Rau, and that is whether the date mentioned by him with regard to the accounts was 1930-31.

Mr. P. R. Rau : Yes, Sir.

Mr. G. Morgan : Then, Sir, I am afraid I must censure the Railway Board. We are now in September 1932 and I cannot see why the commercial accounts of any concern run by Government or by anybody else, I cannot see why the final closing documents of profit and loss, and expenditure and revenue, should not be out long before September 1932. (Hear, hear.)

Mr. P. R. Rau : That is because the Public Accounts Committee will now be considering the accounts of 1930-31.

Mr. G. Morgan : Then I censure the Public Accounts Committee.

1 P.M.

Mr. J. Ramsay Scott (United Provinces : European) : The Public Accounts Committee have been promised the accounts up to 31st March, 1932, within a few days. We were told they are in print.

Mr. P. R. Rau : The Public Accounts Committee are considering the Appropriation Accounts for 1930-31 within a few days and the balance-sheets of all the Railways and collieries for 1930-31 will be placed before them.

Mr. B. Das : May I remind my Honourable friend that it has been the recognised practice of the Public Accounts Committee to expect a balance-sheet for the subsequent year, 1931-32, along with it,—not the audited balance-sheet but the provisional balance-sheet ?

Mr. P. R. Rau : No, Sir. What I understood the Public Accounts Committee required was a narrative report by the Railway Board like a report by the Directors to the Shareholders.

Mr. G. Morgan : I am afraid we are getting into a general discussion. I asked one question of my Honourable friend which he answered and I am sorry interruptions have come from all sides.

I have very little more to say, Sir, except that I should like Government to give us a definite assurance that the accounts of 1931-32 will be placed at once before the Public Accounts Committee and that they will be asked to give a statement to the House by a certain date. I cannot name the date because my Honourable friend Mr. Rau has to place these accounts before the Committee, but it is a year since specimen accounts were handed to the Railway Board to show how commercial concerns run their collieries in Bihar and Orissa and in Bengal. So far as my knowledge of accounts goes, it should certainly not take more than a year to make up the profit and loss accounts. I do not think it is at all necessary that these particular accounts, so far as the information required by the House is concerned, must necessarily await the entire Railway administration papers. I think they might easily be published by themselves separately as a commercial concern and published within six months of the closing of the books. I should like to ask Government that they will definitely give an assurance that an enquiry will be held by the Public Accounts Committee as soon as possible and a report will be given to this House certainly not later than the January Session in Delhi.

Mr. N. M. Joshi : Sir, I have not studied like my Honourable friend, Dr. Ziauddin Ahmad, the science of debate, but when I hear a debate on these industrial and economic questions, I become tempted to take part in the discussion. After reading the Resolution as well as the amendment and following the discussion that has taken place, an impression is left in our minds that this discussion has taken place in the interest of private trade and not in the public interests. It seems to me that there

is a quarrel between those who had the contracts for coal and those who had not the contracts for coal. Sir, if we read the Resolution, my Honourable friend, the Mover, wants the Railway collieries to be run on commercial lines ; if we read the amendment my Honourable friend Mr. Mitra wants also the Railway collieries to be run on commercial lines. Sir, there is also a sting in the tail of his amendment. He says they should be run on commercial lines but without prejudice to the present Government policy of the purchase of coal for railway purposes from the open market. That is, you must run your collieries on commercial lines but see that you purchase coal from private companies also. Sir, in the first place I do not understand at all why the Indian Railways, specially the State Railways, should purchase any coal from any outside concerns. Our Railways own collieries and these collieries are quite capable of producing all the coal that our Railways want. If our collieries are capable of producing all the coal that we want, I do not know why the Railway Board should go in for the purchase of coal and give this House the trouble of hearing a quarrel between one set of contractors and another set of contractors.

Dr. Ziauddin Ahmad : Do they produce all the coal ?

Mr. N. M. Joshi : They can ; but, Sir, my own quarrel with the Railway Board is that the Railway Board, when they can produce their own coal, go in for purchase of private coal and put the tax-payers of this country to a loss. It is quite possible that the present cost of raising coal in the State collieries is higher because they do not produce the whole coal. If our collieries are worked to the fullest capacity their raising cost will go down ; but unfortunately pressure is brought to bear upon the Railway Board from all sides here that Government should purchase private coal. That is at the root of the whole trouble. Sir, I feel that coal is a key product, it is a product necessary for all industries. Coal-mining is a key industry and it is an industry which should be in the hands of the State itself. Many countries in the world have come to the conclusion that the coal industry being a key industry must be controlled by Government.

Mr. S. C. Mitra : Very few have adopted it yet.

Mr. N. M. Joshi : Yes, because very few Parliaments do not possess the kind of members I see before me. Most of the Parliaments are controlled by members who hold the views of my Honourable friends opposite. Sir, in England they appointed a commission to investigate the conditions of labour in the coal-mining industry, presided over by the present Lord Chancellor of England, Lord Sankey. And Lord Sankey's commission by a majority including the capitalists came to the conclusion that the coal industry in Great Britain must be nationalised in the interests of the miners engaged in the industry and in the interest of the whole country. If that is so, it is a fortunate circumstance that in our country we already own some of our mines. Unfortunately there are Members here who put pressure upon Government in order that Government should shut down the mines that they already own and make the raising cost higher. Sir, I am quite willing to admit that if the State is to own the collieries and other industries, these industries must be properly managed ; but at the same time I am not one of those people who will put a wrong interpretation on the words " commercial management ". A commercial management is management which is in the interests of the country as a whole. What is commerce ? A good kind

[Mr. N. M. Joshi.]

of commerce is that commerce which serves the whole community and is useful for the community and not useful only for a particular class of people. Commercial management is therefore management which is in the interest of the country and not in the interest of a particular class of people. I am prepared to admit that our railways, collieries and other State industries should be properly managed and properly controlled and we must insist on these industries rendering proper accounts. I am also prepared to go still further and say that if the Legislature agrees, these industries should be managed by representative boards. At the same time I make it quite clear that these boards must not be controlled by people who are considered to be experts in commerce, trade and industry. These industries belong to the whole country and therefore they must be managed by representatives of the whole country and not by one set of people who pose as experts in industrial matters. If you want to manage your mining industry there must be representatives of the miners also. 150,000 people are engaged in coal-mining. How are they going to be represented on these boards? If you want to manage your industry properly I am quite prepared to consider any proposals for the management of the industries by representative boards including representatives of all interests.

An Honourable Member : Would you like to go on that board?

Mr. N. M. Joshi : That is a different question. As far as this Resolution and amendment is concerned, I really cannot approve of either. If Mr. Mitra had not included the last part of the amendment I might have voted for his amendment. One word about what has fallen from the Railway Commissioner. I do not agree with the dictum which he has laid down that the conduct of public servants should not be discussed in the legislature. I am quite prepared to admit that when we discuss the conduct of public servants we should remember that they are not present in the legislature to give a reply. We should also remember that there is always a restriction upon the freedom of public servants to express themselves in public; but remembering both these things, the conduct of public servants is open to be discussed by this Legislature as much as.....

Mr. P. R. Rau : I think I did not say that the conduct of public servants should not be open to discussion in the legislature; if I said that I am sorry; I did not mean it. I only said that this House should follow the example of the British House of Commons in this respect.

Mr. N. M. Joshi : I am very glad that the Honourable the Financial Commissioner for Railways has admitted that it is open to this House to discuss the conduct of individual public servants.....

Mr. H. P. Mody (Bombay Millowners' Association : Indian Commerce) : He does not say that.

Mr. N. M. Joshi : I am quite prepared to give him this assurance that this House will always give consideration to the fact when we discuss the conduct of public servants that they are not here to speak for themselves and also the fact that it is not open to these public servants to defend themselves in public.

The Assembly then adjourned for Lunch till Twenty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Twenty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

The Honourable Sir Alan Parsons (Finance Member) : Sir, the Honourable the Railway Member, who has been unavoidably detained on other business, has asked me to make his apologies to the House for not being here to reply to this debate, and he has asked me,—I am afraid I am an imperfect substitute.—to take his place for him. It is perhaps not entirely unsuitable that I should reply to this debate, for in a different capacity I have had a very great deal to do both with the Railway Collieries and with the placing of coal contracts. I do not propose to go into the details of the various contracts, which have been quite sufficiently dealt with by my Honourable friend, Mr. Rau, and I propose to confine myself almost entirely to general observations and to attempting, so far as I am able to do so, to meet the points raised by Members on the opposite side.

I propose to say very little about what, I think, most Members of the House have considered as the unpleasant part of this debate. Very serious allegations have been made against the Coal Department of the Railways and some of its officers, allegations which, if there were evidence to support them, would, I suggest, have better been made in a Court of law than on the floor of this House. I have only to say first that those allegations are entirely repudiated by Government, and that Government have complete confidence in the fair-mindedness, capacity and integrity of Mr. Whitworth, a confidence which, I am convinced, is shared by practically the whole of the coal trade in Calcutta. (Applause.)

Secondly, I would advert for a moment to what Mr. Joshi said about the discussion of the conduct of public servants in this House. I in no way quarrel with what he said. I do not think there is really any difference between him and Mr. Rau. It is obviously within the rights of this House to discuss any public question, and the conduct of a public servant *may* be a question of such public interest that it must be raised in this Assembly. But I would say that in making specific allegations against any public servant, very great restraint should be shown, that those allegations should not be made unless they can be supported by evidence, not merely anonymous evidence, but evidence giving the names of the people who are prepared to appear to support it, and even in that case it is generally better that some other course should be taken. I believe that is in accordance with the practice in the House of Commons, and I believe that it is only on one or two very serious and very rare occasions that the conduct of public servants has been called in question in the House of Commons. But I would put it to the House that it is not desirable either for its own reputation or from the point of view of future procedure that that action should often be taken, and that when taken, it should only be on the clearest possible grounds. I propose with these remarks to leave that side of the subject.

I think it may perhaps not weary the House if I explain exactly what the policy of Railways has been with regard to coal contracts and with regard to the ownership of their own collieries and if I tell them very briefly what happened with regard to the coal contracts which were placed this year. It so happened that I myself dealt with them, with another

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officer of the Railway Board and with the advice of Mr. Whitworth. As Mr. Sen very correctly explained, the first step, after tenders have been opened and examined, is that the Chief Mining Engineer as the expert adviser on qualities of coal goes into the tenders with the Loco. Superintendent or similar officer of each railway. Certainly the Railway Board can come to no decision on whether any particular tender should be accepted, whatever the price the coal may be offered at, until it knows the views of its own expert as to the quality of the coal and the views of the particular Loco. Superintendent whether it is a suitable quality of coal for the particular service for which it is to be used. For different qualities of coal are used in different types of locomotives and for different services such as a mail service, a slow passenger service, a goods service and so forth. When the Loco. Superintendents of the Railways have reached an agreement with the Chief Mining Engineer then a complete statement is put up to the Railway Board showing what the Railways wish to take for their particular services and what the Chief Mining Engineer thinks they should take. That statement comes up before the Railway Board. Now, what happened when that statement came up to me last January ? Our general position then was that we anticipated we should want roughly 3 million two hundred thousand tons of coal. We had first of all to decide how much of that we should take from our own collieries and how much we should buy from the market. In previous years we had been taking rather over 50 per cent. from the market and rather under 50 per cent. from our own collieries. We came this year to the conclusion that it was not on the whole to the advantage of railways in the long run if the coal trade was in an unhealthy position, and that we did not want to see numerous collieries, many of them second class collieries, owned, I believe, mostly by Indians, go out of business because they got none of our orders. We therefore determined that we would take a considerably larger proportion of our total requirements from the market and a considerably smaller proportion from the State-managed collieries, with the result that though our total requirements had been considerably reduced from the previous year we gave the market about 250 thousand more tons than before and we reduced our own raisings by something in the neighbourhood of 400,000 tons. That was the first decision. We saw that the coal trade was in the doldrums and we did not consider it desirable from the point of view of Indian Railways to leave it in that unhealthy condition and we therefore decided not to cut down what we were taking from the market, though our own requirements owing to the fall in traffic had decreased, but to give them rather more than the previous year and to cut down our own raisings. Incidentally the result of that action must obviously be to raise the cost of the coal we took from our own collieries, because our overhead charges have to be spread over a smaller quantity. Having decided that we would take rather over 2 million 100 thousand tons from the market, how were we to distribute that amount among the various tenderers ? Now the prices offered to us throughout were in my opinion very favourable to railways, that is to say, I doubt whether they left much margin of profit to most of the collieries. Perhaps my friend Mr. Morgan will be able to tell me whether I am right there. There was a group of collieries whose tenders were considerably below the rates at which most of the collieries in Calcutta had tendered. Now we could not act purely on the price factor, because it was by no means the only factor to be considered. If we had done that, and had taken a very large quantity from

this one group, we should have been stultifying our own policy of attempting to keep the trade as a whole going. If as a consequence other collieries did not get any order, it would have led to exactly those results which we wished to avoid and to attain which we had decided to reduce what we were going to take from our own collieries. The difference in price was not in my opinion sufficiently material to overcome the advantages of our policy and I maintain that what we did with regard to the distribution of those tenders was absolutely right. I trust that in similar circumstances in future the same policy will be followed by the Railway Board and will receive the support of this House.

Mr. S. C. Mitra : Are the lowest tenderers on the approved list of contractors ?

The Honourable Sir Alan Parsons : I am not quite sure what my Honourable friend means. All the tenders received come before the Railway Board with the prices, so that we can compare the prices as between one tenderer and another. I am not quite sure whether there is such a thing as an approved list of tenderers.

That explains what the Railway Board did on this occasion. I now turn to some of the proposals for an alteration in the procedure. I think my friend Dr. Ziauddin Ahmad, who has not yet returned, suggested that there should be some different organisation to decide on the tenders. Actually this is done by the Railway Board and later by the Honourable the Railway Member, and a financial representative of the Government of India, namely, the Financial Commissioner for Railways is invariably present, but without any outside personnel. My Honourable friend Dr. Ziauddin Ahmad suggested that we should have an officer from the Indian Stores Department ; but as far as I am aware the Indian Stores Department purchase no coal at all. They have got nobody I believe who knows anything about coal and I do submit that it is much better that you should have experts in coal to deal with these purchases of coal for railways than, for example, experts in purchasing blankets.

That is all I need say to the House about coal purchases. I should like to turn now to our colliery policy, and first of all to congratulate my friend Mr. Das on a much longer memory than is possessed by most politicians and a good many officials. He pointed out very clearly why railways had to purchase these collieries. Except for one colliery owned by the East Indian Railway Company, I think I am right in saying that railways in this country possessed no collieries till after the war, and during it ; immediately after the war, as Mr. Das pointed out very pertinently, the prices of coal went heavily against the railways. In fact they were squeezed by the market, and in self-defence they had to purchase their own collieries in order to bring down the price. This was the real reason for the State-managed railways taking on this business at all ; and the collieries are in my opinion held by the State-managed and Company-managed railways far more as an insurance against the market going against them than as a purely commercial proposition. I will illustrate that by our practice. In some of our collieries are mines, in which shafts have to be sunk and some of them are really little more than quarries. Obviously it is easier to increase the output from a quarry than it is from a mine, so that the ordinary policy of the Railway Board has been, when the prices in the market are favourable to raise their coal chiefly from the

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mines and only to a smaller extent from the quarries, leaving the quarries as a reserve from which the output can rapidly be increased if the market either combines, or for other reasons goes, against them. Again I will put it to the House that that is a reasonable policy, though it is a policy which means that you must not expect necessarily the same economic return from your collieries, since coal from the mines generally costs more than from the quarries, because the latter are cheaper to work. Subject to that, Sir, I am entirely in agreement with all the proposals which have been made for getting commercial accounts of our colliery working ; and though I cannot give my Honourable friend, Mr. Morgan, the assurance for which he asked,—I have not yet had time to consult my Railway Colleague—I will give him some kind of assurance. My own experience of the Public Accounts Committee has been very limited, in fact I am very largely in the hands of some of my Honourable friends opposite (Cheers) ; but I understand that in some Departments recently, in order that the Public Accounts Committee can get a better survey of what is being done, they do receive commercial accounts for the year succeeding the year with which they are actually dealing. I will consult my Honourable Colleague and the Financial Commissioner of Railways and I will undertake to have the point looked into by the Public Accounts Committee whether we cannot adopt a similar procedure with regard to these colliery accounts, that is to say whether we cannot obtain colliery accounts for the succeeding year—even if finally audited accounts are not available, because Government audit processes are slow processes,—at any rate, sufficiently accurate accounts to give us the information which we shall require in order to deal with them.

Mr. B. Das : That will satisfy us.

The Honourable Sir Alan Parsons : That I think, Sir, is all I have to say on the detailed points raised by Honourable Members opposite. I would put it to my Honourable friend, Mr. Mitra, that, as suggested by the Financial Commissioner of Railways, the Public Accounts Committee is the proper body of non-officials to deal with the matters raised by his amendment, because it is exactly for the purpose of looking into such questions as whether, State-railway collieries are worked properly, whether they are properly managed, whether their results are satisfactory and so on that the Public Accounts Committee is constituted. I personally—I am a very new member of that Committee (*Mr. B. Das :* “ But you are a very able Chairman ”)—I am much obliged to the Honourable Member for that undeserved compliment—as Chairman of the Committee I should not like to see some outside body appointed to take over duties which I think properly appertain to that Committee. (Loud Applause.)

Mr. A. H. Ghuznavi : Sir, at the very outset I will assure this House that in bringing this state of affairs in the collieries to the notice of this Honourable House, I have no axe to grind of my own. (*Mr. K. Ahmed :* “ Hear, hear.”) I am not financially interested in, nor am I concerned in the internal management of, any colliery. Sir, I only considered it my duty to raise my voice against the wanton waste of public money, and I laid bare facts to show how enormous savings could be effected by adopting other methods. Sir, that I have the backing of a large number of colliery

CONSTITUTION OF A BOARD FOR THE PURCHASE OF COAL AND LOOKING 1199
AFTER THE STATE RAILWAY COLLIERIES.

owners will be shown conclusively when I read out to the House the numerous telegrams sent to me :

“ According to Blue Book published by Inspector of Mines number of collieries is 795 out of which Federation may claim to represent hundred or so only whereas 700 colliery owners are not represented by it. Consequently you are representing seven times more than what is represented by Federation.” (Hear, hear.)

This is from Mr. Karnani,—a firm which has as many collieries, if I am not mistaken, as seventeen in number :

“ Mining Federation composed of few colliery owners not representing even-one-fourth per cent. Mines Office List. Stop. Vehemently oppose purchase policy by Whitworth.”

This is from S. Mukerjee, Colliery Proprietor, Shastitola Road, Kidderpore. It also says :

“ Let Government call tenders be convinced what loss sustained in raising contracts only through Mining Engineer.”

“ Resolutions of Mr. Ghuznavi are very reasonable. I as a colliery proprietor and some of my friends who are also proprietors have full sympathy with them. Interested persons only will oppose the Resolutions. They are only few in numbers. Government will kindly accept Mr. Ghuznavi's Resolutions.”

This is from Mr. J. P. Lalla, Colliery Proprietor, Katrasgarh :

“ I support your action in Assembly regarding coal purchase which will help the public.”

This is from Jang Bahadur Singh, Colliery Proprietor, Katrasgarh :

“ I support your action in Assembly regarding coal purchase and State Railway managed collieries.”

This is from Mr. J. P. Lalla, Colliery Proprietor, Nawagarh :

“ We support your motion in Assembly regarding coal purchase for Loco.”

This is from Moti Singh and Brothers, Colliery Proprietors, Katrasgarh :

“ I support your motion in Assembly regarding coal purchase which will help Government and public.”

This is from B. B. Lalla, Proprietor, Selected Peepratand Colliery :

“ I wholeheartedly support your motion in Assembly regarding coal purchase.”

This is from Jiwanlal, Colliery Proprietor, Katrasgarh :

“ I support your action in Assembly regarding coal purchase which will be good for public and Government.”

This is from Harinarain Singh, Colliery Proprietor, Katrasgarh.

“ Public tenders never called before for raising contractors of railway or States-owned collieries except recent tender for Argadah Bengal-Nagpur Railway Colliery which received lowest tender thirteen annas against one rupee six annas present rate, so one can easily make out profit made by parties concerned if tenders are called similarly for Giridih Bokharo Swang Kedla Kargali Bhurkunda Tilehar Jahgrakhand, B. B. and C. I. Railway Koreah Colliery ; if present and tendered rates are placed before Assembly, probably Government will be convinced what they were losing through Whitworth. Purchase prices of railway collieries never disclosed, all State-guaranteed railway colliery raising control, management is under Whitworth. Raising contractors are N. H. Ojha, Amritlal Ojha, Ladha Singh Ratna, Mepha Singh, Rambilas Chaprasee, K. Worrah, partners of Khas Jharria Coal Co.”

[Mr. A. H. Ghuznavi.]

This is from P. C. Banerjea, Colliery Proprietor, member, Indian Mining Federation, and member of the Bengal National Chamber of Commerce :

“ I fully approve Mr. Ghuznavi's Resolutions. Some interested persons have been canvassing against the Resolutions. Federation does not represent whole coal trade. It represents even less than 20 per cent. Resolutions are very fair and should be supported by Government and all members as it will effect economy. Probodh Chandra Banerjee, Member, Indian Federation and Bengal National Chamber of Commerce.”

Another telegram runs thus :

“ Coal purchase for Loco. unjustified. Proprietor North Sinidih Colliery.”

Sir, I have got a large number of telegrams which I have no time to read to the House. But I should like to make them over to you. The names are given. (*An Honourable Member* : “ Read out the names.”) I will give out the names.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair would like to ask the Honourable Member what point he is replying to when he is reading all these telegrams ?

Mr. A. H. Ghuznavi : Sir, I am replying to the point that the Federation is agreeable to the present system and I want to show to this House that the Federation only represents 5 per cent. of the collieries and the members who have sent these telegrams represent 95 per cent of them. There is a telegram from Mr. Probodh Chandra Banerjee, Member, Indian Federation and Bengal National Chamber of Commerce. This is from the Proprietor, New Sinidih Coal Co., Ltd. This is from Chandanmull Indrakumar. This is from Lakurka Coal Company, Limited. This is from H. V. Low.

Sir, the Mining Federation has issued this circular. Now, what is this circular ? Four members were present in that important meeting and the fifth gentleman came afterwards and these five big guns are the favourites of Mr. Whitworth. There were other members of the Mining Federation who had no knowledge of this meeting and the telegrams that have been read out go to show that even no notice was sent to them that such an important meeting was going to be held. The notice was given long after the meeting had been held.

Sir, my Honourable friend, Mr. S. C. Sen, said that I was a Director of moribund coal companies. I sent a telegram to the Managing Agents to find out what was their turnover and what amount Mr. Whitworth had taken from them. This is the telegram that I have received :

“ Bhalgora, B. B. and C. I. order 40,000 ; B. N. W. Railway 50,000 ; R. K. Railway 13,000 for 1932-33 ; Lahore Electric Supply 12,000 one year and other public orders Lakurka State Railway order 18,000 tons and public orders besides Bunker and Shipment Kuardi Port Commissioners order, Arrear State Railway Order and other public orders. Besides Bunker and Shipment Rangoon shipment Bhalgora Simla Bahal Lakurka Kuardi 48,000 one year. H. V. Low and Co., Ltd., Managing Agents.”

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : I rise on a point of personal explanation, 3 P.M.
Sir. I simply went on the reports made in the *Capital* as regards the Company of the Honourable Member and the value of the shares mentioned therein.

Mr. A. H. Ghuznavi : I will read that also for your benefit, if time permits. Sir, before I read from the *Capital* in order to meet the point of my friend, I will read the most important extract from the Rangoon Municipal Corporation which I forgot to read the other day. It is in the official proceedings :

“ There was a great deal said about the question of high volatile and low volatile coals. The Indian Coal Grading Board definitely graded coal from certain collieries and certain seams as high volatile selected grade, 1st grade and so on. Coal from other collieries and seams were listed as low volatile coal. Deshergur coal was listed as a high volatile coal and Victoria Coal as a low volatile coal. They were (*that is, the Corporation*) subsequently asked to accept the statement made by the President of the Indian Coal Grading Board describing Victoria Coal as the High volatile, Low volatile series. Since an official of the Indian Coal Grading Board had made such a statement he would in future place no reliance in any certificates issued by the Indian Coal Grading Board. The contractors might have sent a different sample in perfectly good faith but the fact remained that one coal had been tendered for and another coal had been submitted for examination.”

Sir, the point that I had been raising was that there had been every year a very large number of fictitious tenders. A very large number of fictitious tenders will be found on page 52 of the *Commerce* dated January 16, 1932. I wish to quote a few

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member has no time to read any more. His time is already up and I will ask him to conclude his remarks in a couple of minutes.

Mr. A. H. Ghuznavi : I am thankful to my Honourable friend, the Financial Commissioner, I am also thankful to my Honourable friend, the Finance Member, and I am also thankful to the Chief Commissioner of Railways. As the Financial Commissioner, Railways, has given an assurance that the Public Accounts Committee will be given an opportunity to make a complete enquiry into the matter of the railway collieries, I do not want to press my Resolution. I hope, Sir, that a special meeting of the Public Accounts Committee will be held for the purpose at an early date and that the public will be given an opportunity to produce any evidence that they may think proper. In view of his statement, I would request my Honourable friend, Mr. Mitra, not to press his amendment, but to withdraw the same and, thereafter, I shall also withdraw my Resolution.

Mr. S. C. Mitra : I beg leave to withdraw the amendment. I fully agree with the views of the Financial Commissioner that the Public Accounts Committee, being a statutory elected body of this House, can discharge this function properly. I think my purpose is served and I therefore ask leave of the House to withdraw my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That leave be granted to Mr. Mitra to withdraw his amendment.”
The motion was adopted.

The amendment was, by leave of the Assembly, withdrawn.

Mr. A. H. Ghuznavi : I beg leave to withdraw my Resolution.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That leave be granted to Mr. Ghuznavi to withdraw his Resolution.”
The motion was adopted.

The Resolution was, by leave of the Assembly, withdrawn.

RESOLUTION *RE* INCLUSION OF FLOGGING AND FORFEITURE OF PROPERTY IN THE CRIMINAL LAW FOR CRIMES AGAINST WOMEN.

Pandit Satyendra Nath Sen (Presidency Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That this Assembly recommends to the Governor General in Council that the criminal law be revised so as to include flogging in the list of punishments prescribed for the crime of abduction and similar other crimes against women, and forfeiture of property in cases of repetition by old offenders.”

Sir, abduction and similar other crimes against women is a subject which has been engrossing our attention for the last few years. The existing law is utterly inadequate to cope with the crime which has been increasing year by year, month by month and day by day. Each and every newspaper, daily, weekly, bi-weekly or monthly bristles with such accounts. I shall take up the case of Bengal, first, because that province has become almost uninhabitable for poor people owing to abnormal frequency of these crimes. I quote from a newspaper cutting which is based on a statement laid on the table of the Bengal Council by the Home Member some days ago. The total number of cases of abduction in the province which was approximately 880 in 1926 had gradually risen to 898, 976, 1057, 991 and 931 approximately in 1927, 1928, 1929, 1930 and 1931 respectively. Sir, at the outset, I should make it clear that it is not the Hindu girls alone who are the sufferers in these cases, but that Muhammadan girls also equally suffer, and even more in some cases. In support of my contention, I quote from the same statement again :

“ Of these the number of cases in which the victims were Hindu women varied between 400 and 450 during the same period. The number of cases in which the assailants were Muhammadans and the victims Hindu women varied between 125 and 150. The number of cases in which the assailants were Hindus and victims Muhammadan women were 6, 3, 9, 8, 6 and 7, respectively during the period.”

The only difference is that in the case of Muhammadan girls the assailants are almost invariably Muhammadans, whereas in the case of Hindu girls, the assailants are both Hindus and Muhammadans. The statement goes on :

“ The number of cases in which the assailants were Muhammadans and the victims were Muhammadans varied between 500 and 575.”

So, Sir, this is a matter in which both Hindus and Muhammadans should join hands and should make a combined effort to eradicate this evil from this country. With the increased number of cases, it will be found that the heinous character of the crimes has also increased considerably. I have collected a number of cases which I should like to read out to the House. But as my time is limited, I shall read out only a portion. This is a case of abduction of a Hindu girl :

“ The wife of Kanai Nusker while weeping at the back of her house after night-fall due to an altercation with her husband was gagged by a Muhammadan woman of notorious character, wife of one Bebo Butcher of the locality and was forcibly taken to the latter's house close by. At this house she was concealed for six days, gagged and secured by means of a rope and was guarded constantly by two youths, Bebo's son and nephew with daggers in hand. Here for all these six days she was criminally assaulted by five ruffians, Bebo butcher, his son, his brother-in-law, his nephew and another man living in the same house.”

The reference is to the *Patrika*, dated 6th June, 1931.

I hope Honourable Members will please notice the heinous character of the offence. The father, the son and the nephew running after and actually enjoying the person of the same woman. Now, I come to a case of

abduction of a Muhammadan girl named Goljan Bibi who was forcibly ravished by several ruffians in one and the same night :

“ One Friday evening her husband had gone to the Jessore *hat*, and she was going to cook food with rice and a burning lamp in hand. Keeping these on the verandah, she got down on the court-yard, when she was seized by some people who gagged her mouth by a ‘ gamcha ’ and carried her away to a distant place. There she was ravished by three people whom she recognised. She was almost exhausted by the outrages, she wanted to drink water, and was supplied with muddy water (*because that was the only water available there*). She was brought to and kept confined in a room of one Kanu, brother of accused Mahure. In this room Jadu and Mahure also ravished her. She was again forcibly ravished by Mahure in the room in the very same night when Jadu pressed her down. Then Kanu came ; she fell on his feet and implored him to save her from the hands of the ruffians and to take her to her husband’s house. She followed in good faith to go to her husband’s house. But Kanu took her to a field underneath a mango tree and forcibly fell her down and ravished her. She was exhausted and could not move.....”

Patrika, dated 27th August, 1931.

There is another case of a young girl in which Government servants were also directly connected with the crime and some of them figured as accused. This is the case of a respectable Hindu girl—Pratibha Bala Dam—aged 13 years. She was rescued after two months and a half :

“ She took about three hours and a half to relate the pathetic story and disclosed how she was removed from place to place and was brutally treated by the goondas.”

I will read out only the last portion of her deposition. “ While she was detained in the house of a Muhammadan Noaz by name, she related that Abdul Mannan Chaudhury, Chairman, South Sylhet Local Board, visited her on two occasions at night and criminally assaulted her against her will even when she was laid up with fever. During her illness, one Muhammadan doctor, represented to be Government Sub-Assistant Surgeon of Kalaura, was called on for her treatment, who, she said, also molested her.” Then she was rescued by some villagers on the local board road near Kalaura. (*Patrika*, 7th July, 1931.) All the accused in this case were acquitted because the trying Court held that the identification was not satisfactory and the evidence was not sufficient. But, Sir, the widow mother of this girl preferred a petition to the Sub-Divisional Magistrate against the identification farce, and these were her grounds. I take this from the Bengali paper *Sanjivani* which is the only Bengali paper that is supplied to the political prisoners in Bengal and so it must be taken to be a reliable paper : The identification was arranged at a time when the girl had not yet fully recovered from high fever. She was asked to stand facing the sun. The culprits were mixed up with a very large number of persons, one with 29 and the others with 35,—and I believe that is against law and practice. The accused were allowed to clip their beard and dress themselves in a fashion entirely different from their usual dress. They were also allowed to wear artificial moles on their face. The Assistant Surgeon drew the attention of the Deputy Magistrate to this, but to no effect, as the Deputy Magistrate is alleged to be an intimate friend of the accused’s pleader. While under the strain and fatigue within the unusual surroundings of the jail, the girl, almost fainting, wanted to see the face of any relative, her prayer was refused, and the identification was cut short abruptly.

Here is another shocking outrage, I refer to the famous Charubala case in Chittagong. Before reading out the extract I shall try to give the history of this case in a few words. The accused in this case were two police constables who were on duty there and they got scent of a beautiful

[Pandit Satyendra Nath Sen.]

girl within their jurisdiction. One night they both made their appearance and asked the husband to remove the veil from his wife's face on pain of violence. The poor fellow had no other alternative but to obey them. The veil was removed and one of the constables flashed a torchlight on her face. They were satisfied and they made their choice then and there and then went away. This was the preamble to the actual commission of the crime. On a subsequent night the two constables made their appearance again, and now let the girl tell her own story because, I believe, the version of the victim herself will be more effective than volumes of speech by any outsider. Charubala, the unfortunate girl aged 19 years, in the course of her deposition said (*Patrika*, the 15th June, 1932.) :

“ In the month of Pous last she was sleeping with her husband and her son aged one year in her hut. Somebody knocked at the door, they were asked to open the door. Somebody flashed a torchlight through the opening of the “jhap”. She lighted a lamp and stood in a corner. Her husband opened the door and stood with a bamboo bolt in his hand. One constable entered the hut and asked her husband to go out. He refused. A constable snatched the bamboo bolt from his hand. As her husband was not going out a police constable threatened to kick down her boy. Another constable dragged her husband from the hut. The constable who entered the room had a torchlight and a gun with him. Both the constables took her husband away. She came at the door and saw her husband being taken by these ‘sepahis’. One of the constables then returned towards the hut. She attempted to shut the ‘jhap’ door but there was no time. The constable entered the room and she stood at a corner veiled. That man come to her and seized her by the arms, kissed her forcibly and squeezed her breast. She struggled to get away from him. He gagged her and asked her to keep quiet....”

An Honourable Member : Is it necessary to read all that ?

Pandit Satyendra Nath Sen : I will not read more. As a matter of fact there is a big gap in the newspaper report itself. And what was the punishment in this case ? It was three years for one accused and two years for another. The newspapers shouted for an enhancement of punishment, but to no effect. Sir, I think such miscarriage of justice will shake the foundations of British rule because Indians can tolerate every other kind of oppression but they cannot tolerate outrages upon their women.

I will read only one other case. I should like to point out here that in some cases when the accused persons are rich and influential, they are shielded by the courts. I have already referred to the Pratibha Bala case in which all the accused were let off on the ground of insufficient evidence, and here is another case in which the accused is a Magistrate of Sibsagar in Assam. Three out of five jurors found him guilty of committing offence of rape, abduction, abetment and so on ; yet he was recommended for an acquittal by Mr. Lethbridge, Sessions Judge of Assam. And on what ground ? On the ground of insufficient evidence, because, he says in his judgment that there was no reliable evidence. The version is that the accused :

“ after threatening her with a gun and saying that he was a *hakim* and would put her in jail, forcibly ravished her against her wishes.”

It was alleged that all this time his servant held the door outside, and therefore what evidence can there be except the version of the girl herself ? These things are seldom perpetrated in the presence of witnesses.

Sir, all these cases are from Bengal. But there is no reason to suppose that these crimes are confined to Bengal only. I have collected a dozen of

such cases from other provinces which occurred in the course of six or seven days early this month. I shall only refer to these cases and shall not read any extracts. This is the abduction of a Muslim girl from Dera Baba Nanak ; no arrest has yet been made. This is another case of kidnapping a Hindu woman by a British soldier in Cawnpore when the woman was on her way to the Ganges. Then there is another case from Ranchi where accepting the unanimous verdict of the assessors the Judicial Commissioner of Ranchi sentenced three local Christians to transportation for life for criminally assaulting a young European lady doctor of the English Mission Hospital. So you can see incidentally that British courts know how to inflict a deterrent punishment in these cases if there are sufficient grounds for it, namely, that the victim is a European lady, whereas, in the case of Charubala, the punishment was only three years and two years.

Here is a case from Amritsar. Gurdwara Singh, a school teacher and Nanak Singh have been sentenced to undergo two years and nine months, respectively, by the Additional District Magistrate for the offence of abducting a young woman who had come there on a pilgrimage. There are also other cases, from Akyab, from Nagpur, from Bombay, from Silchar and many other places. Sir, from all these cases it will be seen that the crimes are of the worst type that can be conceived and the number of these cases is increasing from day to day. The punishment that is awarded is nothing compared to the incalculable humiliation to which these girls are subjected, because abduction, rape and other crimes against women are no less than deaths for Indian women. It is a sort of living death, because the girl is, rightly or wrongly, excommunicated from society not only for this generation but for some generations to come along with some of her relatives.

From statistics supplied to us we come to know that all these cases do not come before the courts. These are statistics prepared by the *Sanjibani* and they give the figures for the years 1926 to 1931. I shall quote only the figures for last year : the total number of cases for 1931 is 935. Of these only 390 came before the police and 334 before the courts or a total of 724 ; and the number of cases punished was 119 or about 12 per cent. ; 90 per cent. of the cases are let off, and what is the reason for this ? The reason is mainly twofold : as I have already stated, one is want of sufficient evidence, and the second I should say is the prohibitive price of British justice of which we hear so much, because these helpless women cannot afford to purchase that luxury from courts which often goes to the highest bidder, specially if the accused persons are rich and influential. In all these cases also where punishment is inflicted it is found to be inadequate, because the judiciary is composed of such persons who cannot fully realise the full value of chastity to which we Indians attach so much importance.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : There are jurors and Sessions Judges.

Pandit Satyendra Nath Sen : They all belong to the same type. I would invite the attention of Government that in almost all these cases the punishment is not at all deterrent because in some cases it is found that the accused persons commit the same crime within the period during which they are enlarged on bail. The Giribala abduction case in Jessore and the Jashoda abduction case in Chittagong are instances in point. In

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this connection I cannot but quote a few lines from the late Right Honourable Sir Ameer Ali's Memoirs which were published some time ago in a Hyderabad paper called *Islamic Culture* :

“ A form of crime which happily was not then (that is, in 1895) common in India had become frequent in the unruly district of Rajshahi. Bands of hooligans, I regret to say, not all of them young, took to what is called in the annals of crime ‘gang rape’. This required stern repression. Sessions Judges trying the cases were wont to inflict sentences varying from four to ten years’ imprisonment, which had very little effect in stopping the outrages. Gangs continued to break into the houses, mostly mere huts, of inoffensive peasants, and carry off the married and unmarried women, and after outraging them returned the poor half-dead creatures to their own doors. I applied to Government to pass a short Act legalising capital sentences in such cases as was done in Melbourne, where outrages by the ‘larrikins’ were thus ruthlessly stopped. But the Indian Government had not the courage of the Australian, and I received a polite refusal. My colleague and I then took the matter into our own hands. The sentences came before the Criminal Bench (of the High Court) for revision, and often the Legal Remembrancer appeared for the Crown on the ground of inadequacy of sentence. Our procedure was to issue notices to the accused to show cause why their sentences should not be enhanced. They almost invariably appeared by counsel or pleader and after a full and patient hearing on the accused’s behalf, if we upheld the sentence, we enhanced it to ‘transportation for life’ to the Andaman Islands. In a few months we had the satisfaction of hearing that these brutalities had ceased.”

This is how an illustrious member of the Muhammadan community felt for these unfortunate women....

Mr. K. Ahmed : That was too old : people are more educated now.

Pandit Saytendra Nath Sen : But there are other people who think in the same way even to-day. The punishment for these crimes in ancient India was flogging in some cases, amputation of limbs in other cases and death or forfeiture of property in extreme cases. But India is not a civilised country and it was more uncivilised than it is to-day. But I should say that death was the punishment for some of these crimes in the most civilised country in the world, I mean England ; and it is still the punishment for these crimes in some of the states in the United States of America. India is a country of *Satis*. We all know how Rajput ladies, only some centuries ago, did not hesitate to sacrifice their lives and burn themselves to preserve their honour. In our Shastras it has been stated that the place where women are honoured and respected is like unto Heaven and the place where they are not honoured and not respected is like unto Hell. Even the British Shastras say the same. There is already a Whipping Act ; but that Act applies only to sections 375 and 377 and also in the case of juvenile offenders. But there are other sections ; and there are grown up offenders too. I hope the Act should extend to those sections, on the simple ground that abduction in India is almost equivalent to rape, because Indian women are always averse to giving publicity to that thing : abduction should be regarded as implying rape in 99 out of 100 cases, because if a man abducts a young woman, why should he abduct her except for that purpose ? Otherwise abduction has no meaning. I hope therefore that the Government will give effect to the recommendations contained in my Resolution at least in the spirit if not in the letter. With these remarks I move my Resolution.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Resolution moved :

“ That this Assembly recommends to the Governor General in Council that the criminal law be revised so as to include flogging in the list of punishments prescribed for the crime of abduction and similar other crimes against women, and forfeiture of property in cases of repetition by old offenders.”

Captain Sher Muhammad Khan Gakhar (Nominated Non-Official) : Sir, I had no idea to take part in this debate as I thought my friend, the Honourable the Mover will quote in this debate, also Manu and the Shastras and it will be a signal to Muhammadans to keep quiet. But as the trend of his arguments shows that he is not proposing a purely communal measure, I say a few words on this motion Sir, I oppose this motion. The Honourable the Mover has probably forgotten that we are living in 1932, liberty and independence are the cry of the day. But might I remind him that whenever there is a question of uplifting or betterment of the condition of young girls like the raising of the marriage age and so forth, he begins to quote scriptures and even rebels against his own leader, Sir Hari Singh Gour.

Pandit Satyendra Nath Sen : Not a leader in religious matters.

Captain Sher Muhammad Khan Gakhar : Sir, I should not be misunderstood when I oppose this motion. I am in favour of giving severe sentences to culprits of this type, but what I object to is the barbarous custom of flogging, because in this age we should not encourage it.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Unless in the case of political offenders.

Captain Sher Muhammad Khan Gakhar : After all, this is only a civil offence. (Laughter.) It is better to improve the society than to terrorise it. If we are totally to stop these offences, flogging will not help at all, but we should provide that an arm or a leg or any other limb should be cut off (Laughter) as in old Afghanistan. But I may point out to the House that in some parts of the Punjab, people do not care for whipping. If, therefore, flogging is substituted for imprisonment, they may be encouraged to commit these offences. With these few words, Sir, I oppose the motion.

Mr. Bhuput Sing (Bihar and Orissa : Landholders) : Sir, I beg to accord my hearty and sincere support to the Resolution so ably moved by my Honourable friend, Pandit Satyendra Nath Sen. Sir, abduction of women and similar crimes against women, particularly in Bengal, have been alarmingly increasing of late. One has only to pour over the daily Calcutta press in order to have a rough idea of the enormous extent which such crimes are multiplying. The reply which Mr. Reid, Chief Secretary to the Government of Bengal, gave to Mr. Kishori Mohan Chaudhuri's question in the Bengal Council only last month, reveals the actual figures of abduction cases, district by district, in the province of Bengal, from 1926 to 1931. In all conscience, Sir, the figures are quite staggering. Year by year, month by month, day by day, the public press of Calcutta has been crying itself hoarse over this painful situation. Public leaders have equally decried this distressing matter on public platforms ever and anon. But up till now with very little tangible result. The existing Statute-law on the subject is not quite stringent enough and cannot adequately cope with the alarming situation which has grown in Bengal.

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Despite Executive circulars the usual lukewarmness and apathy of the police in the matter continue as before. People on the country-side are firmly of opinion that in offences against women the offenders get indirect support of police underlings. There is a League for the protection of abducted women under the patronage of eminent leaders of society in Calcutta, but in its activities in the districts it gets very little support in the rescue and protection of abducted women from the district Executives. The consequence of this state of things is that offences against women are multiplying rapidly. The minds of all thinking people in society are being exercised over this dismal situation and the problem which the situation has created has become evidently too much both for the administration and the society. The apathy and indifference of the executive are telling upon the minds of the younger generation, males and females alike, and are weaning their sympathy from the Government. I only emphasise here that not a little of the discontent that prevails among youngmen and women of Bengal at the present moment is to be attributed to this gloomy outlook of things in the society. If the evil is the unfortunate lot of Bengal to-day, it may be the unfortunate lot of the Punjab to-morrow, and that of Bombay and Madras the day after. Abduction of women and crimes against women may be raging to-day in Bengal, but the other provinces are not altogether immune from them at the present moment. What the Honourable the Mover proposes in his Resolution is quite a reasonable one. This House should support him in his demand and the Government in accepting his Resolution would only show their sincerity in the matter, because, but for deterrent nature in the punishment, offences against women will hardly be on the wane anywhere. As the Honourable the Mover wants that the change in the law should be made in the general penal laws of the country, applicable alike to all the provinces, he has come before this House with this Resolution for its sympathy and support.

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs : Non-Muhamadan Urban) : Sir, I rise to support the Resolution of the Honourable the Mover. Crimes against women have assumed an appalling state of things in the province which I have the honour to represent. The returns which the Honourable Mr. Reid furnished to the Bengal Council of crimes against women show that the ordinary law of the land has failed to cope with this class of crimes, which is daily on the increase. Many cases are not reported to the police for fear of social disgrace. In many cases the police fail to find out and arrest the accused. In many the offenders are not punished owing to lack of sufficient evidence, the reasons for such lack of evidence often being terrorisation of the witnesses by the accused or their fellow-ruffians and lack of zeal on the part of the police. In spite of the ordinary law and procedure, the police have hitherto failed to put an effective stop to, or even check offences against women. Still, Mr. Reid declared in the Bengal Council that Government did not intend any special legislation for combating this growing evil. But whatever Government may or may not think proper in the matter, all communities, irrespective of their creed, ought to combine to put a stop to all brutalities against women wherever they may occur. Unremitting efforts are needed both in the Legislature and outside it to check the growing evil. Diabolical crimes against women are not confined to any province in particular at the present moment. They may be quite rife in Bengal and less so in

the Punjab and Bombay. But, Sir, the crimes are there all the same. Wise are those legislators who can forestall things and bring about the legislation betimes to check such a social evil.

It was suggested, as has already been pointed out by no less a person than the late Rt. Honourable Sayed Ameer Ali, that gang-rape or indiscriminate outrages on women, should be punished with death, as he found, while as a judge of the Calcutta High Court, that our Magistrates and Judges did not pass sufficiently deterrent sentences in diabolical crimes against women.

In some of the British colonies the existing law is that any assault or attempted assault on white women by the natives is punished with death. The Honourable the Mover's proposal is that crimes against women should provide for the corporal punishment of flogging and not the greater and irrevocable punishment of death. Thus his proposal is altogether reasonable and quite moderate. But as he means to amend the Penal Code he has come up with his Resolution before this House, and I believe, he would not have brought this Resolution in the Central Legislature had he been assured that the Bengal Government had felt the situation in the matter as keenly as the people themselves. I only hope that the Government of India will study aright the situation timely and must not make it a provincial question.

Mr. Muhammad Muazzam Sahib Bahadur (North Madras : Muhammadan) : Sir, I could never believe that a member of the Nationalist Party could provide a tip to the Government, and that, at a time when they are going to introduce and enact Ordinance legislation. What my friend proposes to do by the Resolution which he has tabled to-day is this. He recommends that flogging may be introduced in the list of punishments in the case of first offenders when they are convicted of abduction, and in the case of a repetition of these offences, he proposes to impose forfeiture of property. So far as the latter part of his recommendation is concerned, Government have already copied it in the case of unlawful associations. Now, this matter, which we are discussing, also relates to unlawful associations, because an abducted girl and the offender form an unlawful association. (Laughter.) But so far as forfeiture of property is concerned, Government have, as I have said, already taken the clue. And I would not be surprised if they take up the other tip also as regards flogging in the case of political offenders.

Mr. K. C. Neogy : That is in operation. What about the lathi charges ?

Mr. Muhammad Muazzam Sahib Bahadur : So far as the law administered in this country is concerned, it is neither Hindu law nor Muhammadan law. We are following the rules more or less of the English law on most of these offences except in the case of adultery which according to the law of advanced countries is not an offence at all. It gives rise to a civil action for damages. (Laughter.) My friends may laugh, but it represents the state of an advanced society. Mr. President, you will concede that a man who has not received the least education would not care for his life in a matter where he suspects that his wife is carrying on unlawful negotiations with an outsider. The moment the suspicion enters his mind, he goes and kills her or the man. Give him a little education and he will not do it. He would think twice before doing it. As a result of the

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imparting of English education, I think our views on these matters are undergoing a radical change. Not that we have come up to the English or the American standard yet, but I think the day is not far off when we shall have to delete that section about adultery altogether. There are indications on every side that we will be reaching that point very shortly. (Laughter.) I lay very great stress on this point in spite of the laughter of my friends.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I do not think the Honourable Member is serious about that argument.

Mr. Muhammad Muazzam Sahib Bahadur : On the other hand, Sir, I am really serious. If my Honourable friend will not concede this point that during the last 30 or 40 years our ideas and our conceptions of matrimonial life have undergone a radical change, then I think my Honourable friend has very little experience of matrimonial affairs. I really think there was a time when Mussalmans believed that once their women broke through the *Gosha* system, no woman could be safe; but is that what we find to-day ? Don't we find a number of our sisters going about and yet keeping their chastity safe ? Is not that so ? Has not society undergone a radical change ? I do not think any distinction could be drawn between Hindu and Mussalman girls ravished in Bengal. There was for my Honourable friend, Pandit Sen, no occasion to make a distinction.

Pandit Satyendra Nath Sen : I only cited a few cases.

Mr. Muhammad Muazzam Sahib Bahadur : He could have cited those cases without mentioning the nationality to which they respectively belonged. I don't think that strengthens his argument. There is no such thing as Mussalman opposition or Hindu opposition. Human nature is the same all the world over. Then my friend takes a view which is very partial to the fair sex. I put to the House the case of a lady, a little bit advanced in age, who solicits and gets into her trap a young man who has not got sufficient experience of the world and the two cohabit. Is the lady to go scot free ? That is a serious question I put to the House. This aspect of the question has not been considered in the case of offences relating to abduction and kidnapping.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : Is the lady you are referring to single or married ?

Mr. Muhammad Muazzam Sahib Bahadur : She is a widow, Sir. (Laughter.) I now leave that aspect of the question and turn to another aspect of Indian life which, according to my friend, is a paramount question in society, namely, the safeguarding of the chastity of women. Unfortunately, Sir, the unanimous opinion of the First Law Commissioners was that what is known as adultery in the law of crimes in India should not find a place in the Indian Statute-book. They were acting on the analogy of people of the advanced European countries and America, but the second Law Commissioners who sat to draft the Indian Penal Code, thought that in response to educated public opinion which had gathered some strength by then, there was some necessity of having on the Statute-book a section of the type that we find in the Penal Code to-day. That law stands. From the way in which my friend prefaced his remarks, I thought that the existing law was not enough to cope with such offences.

That is what he said. I have taken down his words, but at the end he wound up by saying that the punishment awarded was not satisfactory, that the judiciary was composed of people who practically attached no importance to the chastity of the fair sex.

Pandit Satyendra Nath Sen : That is an additional ground.

Mr. Muhammad Muazzam Sahib Bahadur : With regard to that, I say it is left to the discretion of every sane magistrate to deal with a case as his judgment dictates. It must be assumed that the magistracy and the judiciary have some brains and that in cases like these it is very very probable that the magistrates will inflict fairly heavy sentences and likewise in cases where the age of the girl is much below the age of the man, a very severe sentence may be meted out. But in other cases I really think that most of us, if not all of us, if we look back upon our lives (Hear, hear)—I mean most of us—there may be exceptions (Laughter)—my Pandit friend may be an exception, or my Honourable friend, Mr. Gaya Prasad Singh, may be an exception, but most of us.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair has listened to the debate as far as it has gone, and wishes to impress upon Honourable Members that the issue which they are debating is whether a severer punishment should be provided in the penal laws of the country for proved cases of abduction and rape. The Chair trusts that Honourable Members will please restrict themselves to that issue in discussing the Resolution. (Applause.)

Mr. Muhammad Muazzam Sahib Bahadur : Sir, I shall do so. I thought that I had borne that in mind, but if I have made a mistake, I really apologise. I shall restrict myself to the issue of the infliction of the punishment of whipping which my friend recommends for offences of this type. With regard to that, what I would like to say is that a huge mass of opinion in this country is opposed to the infliction of this punishment even in cases where the law prescribes it, and that being so, one really cannot understand the attitude of my Honourable friend, Mr. Sen, when he recommends the punishment of whipping as an additional punishment to those already provided in the Statute-book. As a matter of fact, in these offences, Sir, the punishment prescribed is even transportation for life in some of these cases and in other cases there is a substantive sentence of imprisonment with or without fine as the magistrate likes. But in answer to my Honourable friend's remarks at the end of his speech, I would say that, if in any province in India offences of this type are on an abnormal increase, it behoves the Local Government of that province to issue instructions to the judiciary to inflict a far severer punishment than what they have been doing. I suppose that will serve his object, namely, that the magistrates ought to take a serious view of those offences. Sir, I wanted to say more, but in view of your ruling I have confined myself to the immediate issue, and with these words I oppose my Honourable friend's Resolution.

Mr. C. W. Gwynne (Government of India : Nominated Official) :

4 P.M.

Sir, those of us who have heard the Honourable the Mover's infrequent contributions to the debates of this House are well-acquainted with his wide knowledge, his erudition and, I might add, after to-day's debate, his knowledge of salacious stories reported in some of our newspapers. We have also learnt to appreciate his capacity for research—extensive but in this instance not very accurate for he seems to

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have entirely misunderstood the principles of the law in British India. But before I deal with the issue before the House, I should like to make it perfectly plain that we, on this side of the House, warmly endorse the views which have been expressed in various quarters of the House in condemnation of brutal crimes against women. (Loud Applause.) Sir, no words can be too strong to denounce this particularly detestable type of offence, and from what we have heard, that seems to be the general view, a view indeed that one would expect of all Honourable Members of this House. (Hear, hear.) But the question before us is not the value or otherwise of whipping as a punishment for such offences. The question is whether the circumstances are such or whether circumstances have so changed that some extension of the offences for which the punishment of whipping may be imposed are now in practice necessary. That is the sole issue before the House.

I think it necessary to state, Sir, what the general law on the subject is in view of the very grave misconceptions that are obvious from some of the speeches, which we have heard and particularly from the speech of the Mover of the motion. He quoted instances of offences for which deterrent punishments could be imposed and in regard to which he suggested that the punishment of whipping would constitute a highly suitable additional punishment. The majority of the cases he cited are cases of rape. Sir, perhaps my Honourable friend is not aware that rape is already punishable with whipping. Section 4 of the Whipping Act provides that :

“Whoever abets, commits or attempts to commit rape as defined in section 375, etc., shall be punished with whipping in lieu of or, in addition to, any other punishment to which he may for such offence be liable under the Code.”

Now, section 5 goes on to describe the cases where juvenile offenders may be punished with whipping instead of any other punishment, namely, for any offence punishable under the Indian Penal Code, except the offences specified in Chapter VI, that is, offences against the State, section 153-A—promoting enmity between classes, and section 505, making statements conducive to public mischief : and in clause (b) of the same section it provides that that punishment may be inflicted in other cases also, that is to say where any person under sixteen commits any of these offences against women—and such offences by persons under 16 are by no means uncommon—in those cases too the punishment of whipping may be inflicted. Further, section 6 makes the special provision that a Local Government may provide for this penalty in any wild tract or frontier tract. In Burma, we have rather special provisions. In 1927 the Burma Legislative Council passed a Bill to amend the law relating to the punishment of whipping in Burma the general effect of which is to extend the punishment to a number of other cases which include cases of kidnapping and abduction, procuration, selling minor girls for purposes of prostitution, slavery and similar offences. This Act was passed in Burma in 1927, because of the abnormal increase of crime in that province and it was thought by the Government of Burma that the special circumstances then existing justified legislation of that kind. Such, Sir, is the law on the subject. Whipping is, to recapitulate, a permissible punishment for rape in lieu of and in addition to other punishments throughout British India. It is a permissible punishment in certain cases

for persons under sixteen years of age throughout British India, in lieu of any other punishment. It is a permissible punishment in Burma for the offences of rape, abduction, kidnapping and similar offences. Such, then, Sir, is the law. The Honourable the Mover described the law as thoroughly inadequate, and he relied on what he described as an abnormal increase in this type of crime in his own province of Bengal.

In 1926 and 1927, my Honourable friend, Mr. Neogy, gave notice of a somewhat similar Resolution. It was not moved. My Honourable friend, Mr. Dudhoria, gave notice a few months ago of such a Resolution, but until to-day has had no chance of expressing his views. On those occasions it was not possible for Government to state their views on the subject, but in 1930, the matter was raised in the Council of State in the form of an interpellation by the Honourable Mr. Surpat Singh who drew attention to what he described as the increase in the crime of abduction of women, particularly in Bengal, the United Provinces and Sind and asked whether Government contemplated legislation to speed up trials and administer exemplary punishment. The reply given by the Government was that they were satisfied that the existing law was adequate. That is the position of Government to-day. They consider that the existing law as regards the subject-matter of this Resolution is adequate and that no change is required.

Sir, the Honourable the Mover has relied on statistics, but the information before us which is taken from the reports of criminal justice administration and which give us accurate figures of the number of cases instituted and so on do not indicate any increase in this form of crime. For the period of the last five or six years they show little total variation. There may be here and there some increase which is more than counter-balanced by the decrease elsewhere. Certainly they do not in any way justify the very lurid picture which the Honourable the Mover has painted. Moreover, in the answer given in the Council of State to Mr. Surpat Singh's question, the view was expressed, and it was based on information obtained from correspondence with the Governments of Bombay and the Punjab, that kidnapping and abduction in those provinces do not invariably or indeed often represent crimes of brutality. Those cases are rather due to different causes and the Punjab and Sind attribute them chiefly to the dearth of women in those provinces, women being taken from there to other provinces or other places often with the tacit consent of their parents for the purposes of marriage. Thus, I submit, Sir, that it is clear that on the facts and evidence available Government would not be justified in agreeing to any general extension by amending legislation of the punishment of whipping for offences of abduction, kidnapping and similar offences. They must, therefore, oppose this Resolution on its merits.

The Honourable the Mover has said very little on the subject of forfeiture and I do not propose to say very much either. If he wants to know all about it, he can find it in the excellent commentary on the Indian Penal Code by the Leader of his Party which gives a full account of the history and significance of this form of punishment, a very ancient form of punishment. But by Act of 1921 (Act XVI of 1921) the penalty of forfeiture was to all practical purposes abolished by the Indian Legislature. I may say in this connection that forfeiture has nothing to do with the power of confiscation of property which is provided for in section 517 of the Code of Criminal Procedure. This section

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generally empowers the Court "to make such order as it thinks fit for the disposal of any property or document produced before it, or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence." Forfeiture has nothing to do with such cases. The question really in issue is whether forfeiture in the correct sense of the term would be a suitable punishment in certain cases of kidnapping, abduction and similar cases. On whom would the penalty of forfeiture fall? It would fall really on the heirs and successors of the offender. The act of the accused person in such cases is entirely his own act arising out of his own bad conduct.

Mr. B. R. Puri (West Punjab : Non-Muhammadian) : Please remember this argument a little later !

Mr. C. W. Gwynne : His behaviour will probably be disapproved and discouraged by his heirs and relatives and in the circumstances it is considered a hardship to deprive the family of their right of inheritance. In practice, before the law was changed in 1921, it was found that in the great majority of cases in which the penalty of forfeiture was resorted to it was, in fact, remitted under section 401. It was also thought at the time that the penalty itself in the case of Hindus would owing to the joint family system prove inoperative. For that reason, I submit, that this Resolution should be opposed. Sir, we appreciate the objects of the Mover, who has been influenced by public spirit in bringing it forward, but the remedies that he proposes, we consider, are not necessary and therefore we must oppose the Resolution.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadian Rural) : Sir, I must congratulate my Honourable friend, Mr. Gwynne, for making such an excellent speech in reply to the arguments of the Honourable the Mover. It will be remembered by some of the Honourable Members who are here since 1923 that when the Code of Criminal Procedure was being revised, our friend, Mr. Venkatapatiraju, who is the father of our present Member, Mr. Sitaramaraju, had brought many amendments to the proposed legislation.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair which was taken by Sir Hari Singh Gour.]

At that time, Mr. Chairman, you were also there and you will remember that the punishment of whipping was abolished in the case of Europeans. Mr. Venkatapatiraju had brought an amendment to the same effect, so that it may be done away with in the case of Indians also. He had argued this point at great length. He thought that an invidious distinction between an Indian and a European in the case of this punishment was not desirable. He laid great emphasis on this point, because only a few days before in the previous chapter the Assembly had abolished this punishment in the case of Europeans and it was thought derogatory that this punishment should continue in the case of Indians. I remember this case very well, because I was the man who opposed the amendment for abolishing the punishment of flogging. I opposed it because at that time my argument was that protection should be given to young girls of tender age on whom rape might be committed by grown up people to whom no other punishment can appeal except a corporal punishment. That was my argument in 1923. Mr. Venkatapatiraju, accepted my argument and withdrew his amendment and the punishment of flogging still remains in the Statute-book.

I supported the amendment at that time and I think all the Honourable Members of this House will agree when I say that punishment of flogging should be inflicted only in those cases when rape is combined with cruelty. That is, if rape is committed on a girl of tender age, then certainly flogging is the only proper punishment. I know, Sir, that an instruction had been issued by the High Court to all the District and Sessions Judges that this should be the practice after 1923 and this direction stands to-day. We find that invariably in such cases the punishment of flogging is given.

Mr. S. G. Jog (Berar Representative) : Because it is provided in the Act.

Mr. Muhammad Yamin Khan . My Honourable friend is mixing up the case of rape and abduction. He has brought forward the question of abduction which is a totally different thing from rape, also rape of a heinous character. If a rape of heinous character is committed, then the punishment of flogging is necessary or some corporal punishment is necessary. Supposing you send a labourer to jail for two or three years, he gets better food in the jail and after undergoing the period of imprisonment he goes back to his village. Certainly that would be no punishment to him at all. In such a case the punishment of whipping is the only proper punishment. But my Honourable friend has used a wide expression so as to cover all kinds of cases, abduction, kidnapping and rape and so on. He wants to cover the case of a woman who goes with her lover and lives with him and afterwards she says she has been cheated. My Honourable friend wants to bring such cases under the law of abduction. That is an absolutely different thing from rape. You cannot punish a man for such an offence with whipping. Whipping can not be a punishment in such a case. I agree with my Honourable friend, Mr. Muazzam Sahib, that these offences will after some time be taken away from the Statute-book. If a woman leaves her house, of her own free will, and if she is a grown up woman, some pretext or other will be found for her leaving the house, these offences should not be made punishable, if at all, these offences should be punished with some little punishment. My Honourable friend wants that in the case of abduction, the offence should be punishable with flogging. I see already that the punishment which is provided for in these cases under the Indian Penal Code is far too excessive and in many cases, a sentence which is not desirable has been given. If the Judge who is trying such cases is of the mentality of my Honourable friend, the Mover of this Resolution, then I pity the accused who figures before such a Judge. There are some offences which are against the State, there are some which are against society. These offences which are prompted by natural instincts and which are prompted by feeling from the other side, I say these offences have some kind of redeeming feature. You cannot go and lay down the highest model for the entire society. You want to cut off the head of a man who has committed such a slight offence of this nature. There are abductions which are on different reasons. There may be a case of a guardian or a husband not treating the ward or the wife properly and if for this purpose a woman deserts her house and goes and lives with her lover or her paramour, you cannot make the offence punishable with whipping. Does my Honourable friend want in this case, though it falls under the category of abduction, that it should be punishable with whipping and forfeiture of property ? Certainly not. Nobody will ever support such a proposition except in theory. What do we see in practice ? We see daily so many cases being defended in courts.

Pandit Satyendra Nath Sen : Sir, I have listened to the speeches delivered by my non-official friends as well as to the speech delivered by Mr. Gwynne on behalf of Government. I am sorry that my Honourable friend, Mr. Muazzam Sahib, wanted to give a communal colour to this question. As a personal explanation, I will simply say, that I only read out the reports in the newspapers as they appeared there and I quoted cases of Hindu girls as well as cases of Muslim girls. As to the offence being of a civil nature, I as a layman fail to understand it altogether because in spite of the civil nature of the crime there is no gainsaying the fact that it is after all a criminal offence. As a matter of fact the value of chastity cannot be assessed at any particular price from the Indian point of view. The woman has been robbed of her highest treasure and what price can you offer her for it ? Mr. Gwynne said that there has been no increase in the last few years of these crimes, but I beg to submit that the average for the last few years is much above the average for the previous years ; and perhaps the number has reached the maximum limit. He has also delivered a pious lecture on forfeiture of property and I only hope that Government will take up the same attitude on all occasions. My Honourable friend, Mr. Yamin Khan, has said that flogging is a very severe sentence. I quite admit that, but does he mean to say that these offences are not severe ? If these offences are severe, some severe punishment should be inflicted.

Mr. Muhammad Yamin Khan : I said it is not severe in some cases, while in some cases it may be very severe.

Pandit Satyendra Nath Sen : My friend said that this subject could have been discussed a hundred years ago, but it is not a proper subject for discussion to-day. But, Sir, I beg to submit that the persons who commit these crimes are no better than brutes and it is only proper that they should be treated as brutes, and flogging I think is the only punishment which will suit them. In recommending this punishment I do not say that flogging should always be inflicted and that it should be inflicted to the highest degree. Some five or six lashes will do in some cases while in some cases more will be required ; and it will serve as a deterrent on persons who are in the habit of committing such offences. I have cited some cases in which the accused persons repeated the crime during the period of bail. So it is clear that in many cases the punishment is not at all deterrent. My Honourable friend, Mr. Yamin Khan, said that there may be cases of abduction in which the woman is a consenting party. I certainly do not mean to include those cases within my Resolution.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

However, in moving this Resolution, I had a two-fold grievance in my mind. One point was that the punishment is not deterrent in all the cases, and in other cases although the punishment prescribed is enough, the punishments awarded are in most cases inadequate. For example, in the case to which I referred, I mean the Charubala abduction case, the punishment was only three years.....

Mr. Muhammad Yamin Khan : Is three years not sufficient ?

Pandit Satyandra Nath Sen : I think that that case must have been treated as a case of ordinary theft, not even as a case of robbery or dacoity although the woman was robbed of her highest treasure. However, I hope that the Government of India should issue instructions to Local Governments to inflict deterrent punishments in these cases so that the evil may be eradicated from the country before long. With these words I beg to recommend my Resolution.

Mr. President : The question is :

“ That this Assembly recommends to the Governor General in Council that the criminal law be revised so as to include flogging in the list of punishments prescribed for the crime of abduction and similar other crimes against women, and forfeiture of property in cases of repetition by old offenders.”

The motion was negatived.

RESOLUTION *RE* SOUTH INDIAN INFANTRY BATTALIONS.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That this Assembly recommends to the Governor General in Council that the South Indian Infantry Battalions be again raised in the Madras and Bombay Presidencies.”

I need not go into the history of the origin of the Madras Army and that of the Bombay Army. Those armies have now given place to the Indian Army and exploration in ancient history may not be very profitable. The Madras Army as well as the Bombay Army were very humble in origin ; but as the power of the East India Company grew in strength they had also to expand their army and the struggle for supremacy in the Carnatic that was carried on with the Mahrattas, Hyder and Tippu obliged the Madras Government to increase their army to a very great extent. At one time the strength of the Madras Army was very big : two battalions of artillery, one European and one Native, three battalions of foot artillery of four companies each with four companies of lascars attached ; three regiments of light cavalry, two corps of pioneers : 52 battalions of native infantry ; three local battalions : that was at one time the composition of the Madras Army. It is also noted in history that in the early days of the Madras Army the enlisted men of Madras fought very well on the side of the British and they were so much attached that in the siege of Arcot when food ran short the sepoy remained content with the *conji* and gave the rice to the British troops. The services of the Madras Army not only within India but even in foreign countries are very noteworthy. I quote from the work entitled “ Armies of India ”. In 1762, an expedition composed of Madras troops took part in the war with Spain by capturing Manila. In 1795, an expedition from India captured Ceylon from the Dutch and French, the native troops being from Madras.....

Mr. B. N. Misra (Orissa Division : Non-Muhammadan) : May I bring to notice that there is no quorum ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The attention of the Chair has been drawn that there is no quorum present.

(After the bell had been rung, the number of Members was counted.)
As there is no quorum, the House will adjourn to 11 o'clock to-morrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 23rd September, 1932.

■

CORRIGENDUM.

In the Legislative Assembly Debates, dated the 13th September, 1932, Vol. IV, No. 6, pages 539 and 540, in the first lines of starred questions Nos. 230 and 231, *for* “ Dr. Ziauddin Ahmad (on behalf of Khan Bahadur Haji Wajihuddin) ” *read* “ Khan Bahadur Haji Wajihuddin ”.

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LEGISLATIVE ASSEMBLY.

Friday, 23rd September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

QUESTIONS AND ANSWERS.

ACTION TAKEN ON REPRESENTATIONS ABOUT DEPRECIATION OF THE *yen*.

664. ***Mr. Gaya Prasad Singh** (on behalf of Lala Rameshwar Prasad Bagla) : (a) Will Government please state the date when they received the first representation from the public urging on them the immediate necessity for raising the tariffs on the goods imported from Japan in consequence of the situation created by the depreciation of the *yen* ?

(b) Will Government please state whether they decided to ask the Tariff Board to conduct an urgent enquiry in this connection ? If so, on what date did they so decide ?

(c) Are Government aware that the Indian Industrialists have suffered very heavy losses owing to Government's dilatory attitude towards this question ?

(d) Is it a fact that Government are empowered to take immediate action under section 3, sub-section V of the Indian Tariff Act, 1894 ?

(e) If so, will Government please state reasons why they did not make use of the above power conferred upon them by the said Act ?

(f) Will Government please state the date by which they hope to adopt the recommendations of the Tariff Board in this regard ?

(g) Have Government any separate proposals of their own to offer in respect of their future tariff policy ?

(h) If so, do Government propose to place them before the Assembly in its current Session ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) The first representation on the subject was received by the Government of India on the 28th June, 1932.

(b) The attention of the Honourable Member is invited to the Press Communiqué on the subject issued by the Government of India in the Department of Commerce on the 25th July, 1932, copies of which are in the Library. The Tariff Board was directed on the same date to make the enquiry referred to in that Communiqué.

(c) As no avoidable delay on the part of the Government of India took place, this part of the question does not arise.

(d) If the Honourable Member will refer to the Indian Tariff Act, he will see that the Governor General in Council is empowered to take action under section 3, sub-section (5) if he is satisfied, after such enquiry as he thinks necessary, of certain facts.

(e) and (f). As the Honourable Member is now doubtless aware, action has been taken in exercise of the power conferred by the section in question.

(g) No, Sir.

(h) Does not arise.

DELEGATES AND THEIR ADVISERS REPRESENTING GOVERNMENT OF INDIA AT THE INTERNATIONAL LABOUR CONFERENCES.

665. ***Mr. K. Ahmed** (on behalf of Lala Rameshwar Prasad Bagla) :

(a) Will Government please place on the table a statement showing the names of the Delegates and their Advisers who represented the Government of India at the various International Labour Conferences as also the subjects discussed at each of such conferences ?

(b) Will Government please state if they were represented at all such conferences ? If not, when and why not ?

(c) Will Government please state if they have so far nominated a woman-adviser for any of these conferences ? If so, when ?

(d) Will Government please state whether or not questions affecting women were discussed at any of these Conferences ?

(e) Is it a fact that under the constitution of the International Labour Organisation it is necessary that of all advisers " one at least should be a woman when questions specially affecting women are under discussion " ?

(f) If the reply to part (e) be in the affirmative, are Government prepared to assure the House that in future they would without fail nominate a woman as an adviser particularly in years when the International Labour Conference would take up matters affecting women ?

The Honourable Sir Frank Noyce : (a) The information asked for will be found in the Bulletins of Indian Industries and Labour and the Proceedings of the International Labour Conference, copies of which are available in the Library of the House.

(b) The Government of India were represented at all the Conferences.

(c) A woman adviser was nominated for the Third Conference held in 1921.

(d) Yes.

(e) Article 389 (2) of the Treaty of Versailles contains the provision quoted by the Honourable Member, but its terms are not mandatory.

(f) The answer is in the negative.

Mr. N. M. Joshi : May I know whether the Government of India propose to send delegates as well as advisers to the next conference ?

The Honourable Sir Frank Noyce : I am sorry, I did not catch the Honourable Member's question.

Mr. N. M. Joshi : My question was whether the Government of India propose to send a full delegation to the next Conference and not send delegates only as they did last time ?

The Honourable Sir Frank Noyce : Four delegates constitute the full delegation, and that was the number which, I think, was sent on the last occasion.

Mr. N. M. Joshi : May I know whether the Government of India will send advisers also as they generally do, except last year ?

The Honourable Sir Frank Noyce : That point will be considered, Sir.

STRENGTH OF IRRIGATION EMPLOYEES IN BALUCHISTAN AND THE COMMUNITY TO WHICH THEY BELONG.

666. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government kindly place on the table a statement regarding the strength of irrigation employees in Baluchistan classified under Hindus, Muhammadans and others ?

(b) How many of these have been employed during the last two years ?

(c) Were any of these new posts ever advertised ? If not, why not ?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to take questions Nos. 666-669 together.

Information is being collected and will be placed on the table of the House in due course.

CONTRACTS FOR WORKS WITHOUT TENDERS IN BALUCHISTAN.

†667. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that contract work is given without tenders in Baluchistan ?

(b) Is it a fact that the local contractors are not given preference ? If so, why ?

DEPRIVATION OF TWO PUNJABI SUB-DIVISIONAL OFFICERS OF THEIR SUB-DIVISIONS IN BALUCHISTAN.

†668. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : Is it a fact that two of the Punjabi Sub-Divisional Officers were deprived of their Sub-Divisions in Baluchistan and the same posts were, after a short time, given to Sindhis ?

APPOINTMENTS OF RETRENCHED MUSLIMS IN THE IRRIGATION DEPARTMENT, BALUCHISTAN.

†669 ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that a number of local young men are on the approved list of the Revenue Commissioner, Baluchistan ?

†For answer to this question, see answer to question No. 666.

(b) Is it not a fact that whenever a vacancy occurs in the Baluchistan Irrigation Department, it is given to outsiders ?

(c) Why are these clerical posts not being offered to the retrenched and discharged Muhammadans of the other departments ? Are Government aware that they are available in large numbers ?

HOME DEPARTMENT CIRCULAR *re* RETRENCHMENT OF MEMBERS OF MINORITY COMMUNITIES.

670. **Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : Will Government please state if it is a fact that a circular letter was issued last year by the Home Department to all Heads of Departments to the effect that at the time of retrenchment it should be seen that the percentage representation of a minority community in a particular Department does not decrease after the reduction of staff ?

The Honourable Sir Alan Parsons : Government issued orders in August, 1931, that in selecting individuals for discharge, there should be maintained to the nearest practicable figure in each category the ratio between the various communities represented by their present numbers in the category.

Mr. N. M. Joshi : May I know whether this ratio is taken for the whole Department or for each section of a Department ?

The Honourable Sir Alan Parsons : It certainly is not for the whole service. I cannot say, without looking up the papers, exactly to what categories the ratio is applied.

RETRENCHMENT OF MUSLIMS IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

671. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Will Government please state what was the total number of men who were retrenched last year in the Railway Clearing Accounts Office, Delhi, and what was the number of Muslims among them ?

(b) Will Government please state what was the percentage of Muslims in the Railway Clearing Accounts Office before and after the reduction ?

Mr. P. R. Rau : (a) and (b). I have called for certain information and shall lay reply on the table of the House, in due course.

RETRENCHMENT IN THE RAILWAY CLEARING ACCOUNTS OFFICE, DELHI.

672. ***Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that in April, 1932, when reduction was made in the staff of the Railway Clearing Accounts Office, Delhi, no distinction was made between those who had passed and those who had not passed the Class I examination of that office ?

(b) Is it a fact that in the reduction in November, 1931, those who had passed Class I examination were retained as a special case ?

(c) Is it a fact that last year the result of Class I examination was declared after five months whereas usually it does not take more than two months ? If so, why ? Had it anything to do with the reduction of staff ?

Mr. P. R. Rau : (a) Yes.

(b) No.

(c) Yes. I understand that the delay was due to a rush of work in office and had nothing to do with the reduction of staff.

**APPOINTMENT OF TWO HINDUS IN THE RAILWAY CLEARING ACCOUNTS OFFICE,
DELHI.**

673. **Kunwar Hajee Ismail Ali Khan** (on behalf of Shaikh Fazal Haq Piracha) : (a) Is it a fact that two men of his own community of the Southern Punjab Railway were appointed by R. B. Faqir Chand, Officer on Special Duty, Railway Clearing Accounts Office, Delhi, in the Rates Experiment on Rs. 100 each after the abolition of Southern Punjab Railway Office ?

(b) Is it a fact that the Railway Board had refused to take these men in their service and that they were paid all their dues, i.e., bonus, etc., from the Southern Punjab Railway ?

(c) Is it a fact that afterwards they were transferred to the Railway Clearing Accounts Office where they became senior to many, as their old services were counted ?

(d) Is it a fact that in the Railway Clearing Accounts Office two junior men were settled up ? If so, why ?

(e) Will Government please state why preference was given to outsiders over those who had been working in the Railway Clearing Accounts Office ?

Mr. P. R. Rau : (a) I understand that the two men referred to were appointed by the Director of Railway Clearing Accounts Office and not by the Officer on Special Duty.

(b) At the time the Southern Punjab Railway was taken over, the staff employed, numbering 21, asked to be provided with employment in the Railway Department. The Railway Board were unable to offer them any employment.

(c) I am informed that, for purposes of seniority, their services were counted from the date of their appointment in the Railway Clearing Accounts Office.

(d) The reply is in the negative.

(e) I have been informed that they were taken into the Railway Clearing Accounts Office, because their service in the Southern Punjab Railway Company had given them special experience in the work relating to the appointment of freight to worked lines.

CORRESPONDENCE BETWEEN MAHATMA GANDHI AND LORD WILLINGDON ON
THE CHANGE OF PROCEDURE TO WORK OUT CONSTITUTIONAL REFORMS.

674. ***Rai Bahadur Sukhraj Roy** : Will Government be pleased to state :

- (a) whether there has recently been any exchange of correspondence between Mahatma Gandhi and His Excellency Lord Willingdon after the change of procedure to work out constitutional reforms for this country as announced by the Secretary of State for India ,
- (b) if so, at whose initiative the correspondence was begun and whether it is still going on ;
- (c) whether Pandit Jawaharlal Nehru and other Congress leaders have also been communicated with ; and
- (d) what the exact text is of the correspondence that has so far passed ?

The Honourable Mr. H. G. Haig : (a), (b), and (d). The story to which the Honourable Member refers has already been contradicted in the Press. There has been no such correspondence.

(c) No.

DELEGATES FROM INDIA TO THE IMPERIAL CONFERENCE AT OTTAWA.

675. ***Rai Bahadur Sukhraj Roy** : Will Government be pleased to state the names of the delegates from India who are attending the Imperial Conference at Ottawa and the procedure by which they were so selected ?

The Honourable Sir C. P. Ramaswami Aiyar : The attention of the Honourable Member is invited to the statement on the subject made by Sir George Rainy in this House on the 4th April, 1932. In addition to the gentlemen then named by Sir George Rainy, Sir George Schuster and Sir Henry Strakosch were subsequently appointed Members of the Indian Delegation.

DELEGATES FROM DOMINIONS TO THE IMPERIAL CONFERENCE AT OTTAWA.

676. ***Rai Bahadur Sukhraj Roy** : Will Government be pleased to state the procedure adopted for the selection of delegates to the Imperial Conference at Ottawa by Australia, Canada and other Dominions ? How many delegates attended from each of these dominions and what are their names ?

The Honourable Sir C. P. Ramaswami Aiyar : The Government of India have no information as to the procedure adopted for the selection of delegates to the Imperial Economic Conference from countries other than India and will only have full information as to number and names on receipt of the copies of the proceedings of the Conference.

Dr. Ziauddin Ahmad : Have the Government of India received a copy of the proceedings of this Conference ?

The Honourable Sir C. P. Ramaswami Aiyar : No, not the full proceedings, Sir.

Mr. N. M. Joshi : May I know, whether the Government of India have noticed that with the British Delegation to the Ottawa Conference there were advisers belonging to the Trade Union Congress ?

The Honourable Sir C. P. Ramaswami Aiyar : That has been noticed.

Mr. N. M. Joshi : May I ask, why they did not include any advisers from the Trade Union movement in India ?

The Honourable Sir C. P. Ramaswami Aiyar : It was not considered necessary.

Mr. N. M. Joshi : May I ask, why it was not thought necessary ?

The Honourable Sir C. P. Ramaswami Aiyar : Because it was considered that the delegation would be able to deal with the problems that would arise from time to time for solution and the Trade Union advisers were not needed for their purposes.

Dr. Ziauddin Ahmad : Is it a fact that the Government of India have asked the Indian Delegates to prepare a Report from the point of view of India ?

The Honourable Sir C. P. Ramaswami Aiyar : Naturally, Sir.

EXPENDITURE ON THE JOURNEY OF INDIAN DELEGATES TO THE IMPERIAL CONFERENCE AT OTTAWA.

677. ***Rai Bahadur Sukhraj Roy :** Will Government please state how much has been sanctioned by them for expenditure in connection with the journey of the delegates of this country to the Imperial Conference at Ottawa ?

The Honourable Sir C. P. Ramaswami Aiyar : Indian Delegates to the Imperial Economic Conference, Ottawa, have been granted first class return passages and railway fares for journeys performed in connection with the Conference. The actual amount involved is not yet known.

PROPOSALS AGREED TO BY DELEGATES TO THE IMPERIAL CONFERENCE AT OTTAWA ON BEHALF OF INDIA.

678. ***Rai Bahadur Sukhraj Roy :** Will Government please state whether the proposals agreed to by the delegates on behalf of India at the Imperial Conference at Ottawa will be subject to the approval of the Secretary of State for India and the Indian Legislatures and, if so, has the Conference been informed accordingly ?

The Honourable Sir C. P. Ramaswami Aiyar : The attention of the Honourable Member is invited to the statement made on the subject in this House on the 4th April, 1932, by Sir George Rainy and to his answers to the supplementary questions that followed and also to the first sentence of the Press Communiqué issued by the Government of India in the Department of Commerce on the 20th August, 1932, copies of which are in the Library. An announcement on the same terms as the Press Communiqué referred to was made at the Conference.

INSTRUCTIONS TO DELEGATES TO THE IMPERIAL CONFERENCE AT OTTAWA
BY THE GOVERNMENT OF INDIA.

679. ***Rai Bahadur Sukhraj Roy** : Have any instructions, special or general, been given by the Indian Government to the delegates from India attending the Imperial Conference at Ottawa or are they to act on their own free will and to the best of their judgment ?

The Honourable Sir C. P. Ramaswami Aiyar : As is usual in such cases, the Indian Delegation to the Imperial Economic Conference were supplied with briefs containing information and the instructions of the Government of India on the various items of the Agenda for the Conference. In the matter of the negotiation of Trade Agreements, the Delegation were given a free hand in the initiation of proposals which they communicated from time to time to the Government of India for approval.

Mr. K. C. Neogy : Will these papers and other connected papers be made available to this House before the discussion comes on in the next Session in Delhi ?

The Honourable Sir C. P. Ramaswami Aiyar : It is proposed to publish as many as possible of the papers pertinent to the subject in sufficient time to allow Honourable Members of this House to deal with the subject exhaustively and fully at the forthcoming Session of this Honourable House.

Mr. B. Das : Was the Delegation kept advised about the views of the non-officials and the public and also of the Indian Merchant Chambers about this matter ?

The Honourable Sir C. P. Ramaswami Aiyar : From time to time, Sir, there were communications exchanged between the Department of Commerce and the Member in charge of the Commerce Department and the Delegation. They were kept informed of the trend of opinion here on both sides of the question, and they were fully alive to the implications of what they were doing and the reactions of what they were doing upon India.

Dr. Ziauddin Ahmad : Will the instructions given by the Government of India to the Delegates on each item of business be also communicated to this House ?

The Honourable Sir C. P. Ramaswami Aiyar : On all important items on which their opinion was asked, the Government of India made up their minds and communicated their views.

Mr. B. Das : Has there been any trade agreement between India and Canada ?

The Honourable Sir C. P. Ramaswami Aiyar : At present the trade agreement that has been entered into is between Great Britain and India. Negotiations were initiated for the purpose of a trade agreement between certain Dominions and India, but those negotiations have not yet culminated in any agreement.

Dr. Ziauddin Ahmad : May I ask, if only some of the facts are supplied to the Members of the Assembly, they will not be in a position to form a correct judgment ?

The Honourable Sir C. P. Ramaswami Aiyar : I think the question does not accurately take into account the considerations I have already stated. No fact pertaining to this matter and which had a bearing on this matter will be kept back from the Honourable Members of this House, because Government are fully aware that on the decision of this Honourable House depends the ratification of the agreement.

Mr. Gaya Prasad Singh : Do I understand that any part of the papers supplied to the Government nominees on the Ottawa Conference will be withheld from this House.

The Honourable Sir C. P. Ramaswami Aiyar : I did not say so, Sir.

THIRD ROUND TABLE CONFERENCE.

680. ***Rai Bahadur Sukhraj Roy :** Will Government be pleased to state :

- (a) whether it is proposed to convene a Third Round Table Conference to discuss the question of constitutional changes in India ;
- (b) if so, whether the Conference will be held in England or India and what will be the number of delegates and the names of those who will compose the India Delegation ;
- (c) whether the Congress leaders will be invited to attend the Conference ; and
- (d) what country will bear the expenses of the Conference and by what time it is expected to meet ?

The Honourable Sir C. P. Ramaswami Aiyar : (a), (b), (c) and (d). The Honourable Member is referred to the speech delivered by His Excellency the Governor General in this House on the 5th September, 1932. I am not in a position at present to give any information regarding the number and the names of the Indian Delegation and the incidence of the expenditure which is likely to be involved.

Mr. B. Das : Will Government take any steps to approach Congress leaders and sound their views whether they will join the next Conference ?

The Honourable Sir C. P. Ramaswami Aiyar : It has not been, so far, proposed to approach the Congress leaders and sound their views as to their willingness to attend this Conference.

RE-DISTRIBUTION OF THE BOUNDARIES OF SOME PROVINCES.

681. ***Rai Bahadur Sukhraj Roy :** Will Government be pleased to state :

- (a) whether it is proposed to re-distribute the boundaries of some of the provinces in India on a linguistic basis in the new constitution ;
- (b) how many Boundary Commissions were appointed for the purpose and what has been their reports ;
- (c) whether it is intended to give effect *in toto* to the recommendations of these Commissions or whether there will be additions and alterations in the proposals made ; and
- (d) whether the Indian Legislatures will be consulted before giving final effect to these recommendations ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) No decision has yet been reached regarding the distribution of the boundaries of certain provinces in the manner proposed by the Honourable Member.

(b) The Orissa Committee Its report has been published.

(c) and (d). The report is under consideration, and I am not able to say what procedure will be followed.

PERMISSION TO REV. OTTAMA TO PROCEED TO LONDON.

682. ***Rai Bahadur Sukhraj Roy** : Will Government be pleased to state :

- (a) whether the Secretary, Mahabodhi Society, Calcutta, has made a recommendation to His Excellency the Viceroy for permission to Rev. Ottama to proceed to London for recouping his health and also to devote the rest of his life to religious propaganda ;
- (b) if so, what orders were passed on the said representation ;
- (c) whether it is a fact that the issue of a passport has been refused, if so, what the grounds are for such refusal ; and
- (d) whether the passport has been refused by the Indian Government or the Burma Government on instructions from the Indian Government ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b), (c) and (d). Having regard to U. Ottama's previous activities, the Government of Burma, after consulting the Government of India, informed the Mahabodhi Society that they were unable to grant him a passport.

Mr. Gaya Prasad Singh : Will the Honourable Member kindly state the nature of the previous activities referred to in this reply ?

The Honourable Mr. H. G. Haig : It would be a very long task to state the previous activities of U. Ottama.

Mr. Gaya Prasad Singh : Is it not a fact that Rev. U Ottama is prohibited from proceeding to England as he is the leader of the anti-separation party ?

The Honourable Mr. H. G. Haig : No, Sir. The withholding of the passport has nothing whatever to do with that matter.

Mr. Gaya Prasad Singh : Is it not a fact that the Government of Burma, headed by His Excellency the Governor, hold very strong views in the matter of the separation of Burma from India, and he is instrumental in trying to prohibit the Rev. U. Ottama from proceeding to Europe ?

The Honourable Mr. H. G. Haig : The point which the Honourable Member is raising does not arise in view of the perfectly definite assurance I have just given him that the refusal of the passport has nothing whatever to do with the question of the separation of Burma.

Mr. K. C. Neogy : Was it due to the fear that his presence in London would lead to a political revolution in England ?

The Honourable Mr. H. G. Haig : No, Sir. He was granted a passport in 1928 and his activities during that time were, in our opinion, dangerous.

Mr. Gaya Prasad Singh : Do I understand that the nature of those activities is before the Honourable Member at the present moment ?

The Honourable Mr. H. G. Haig : Yes, Sir. I am very well aware of those activities.

Mr. Gaya Prasad Singh : Will the Honourable Member kindly summarise the nature of those activities, so that we may have some idea of what he did in Europe last time ?

The Honourable Mr. H. G. Haig : No, Sir ; the information is confidential

Mr. Gaya Prasad Singh : Then why did you not say so at the very beginning ? (Laughter.)

VISIT OF MR. V. J. PATEL TO THE UNITED STATES OF AMERICA.

683. ***Rai Bahadur Sukhraj Roy :** (a) Will Government be pleased to state whether they are aware that Mr. V. J. Patel, ex-President of the Assembly, is shortly leaving on a mission to the United States of America " to explain the truth of the Indian position to the American people and do other political work on behalf of India " ?

(b) Has he been granted a passport ? Is the India League also sending a delegation to India to obtain information on the Indian situation ? Has the necessary passport been granted ? Who will compose the delegation ?

The Honourable Mr. H. G. Haig : (a) and (b). I have seen in the Press that Mr. V. J. Patel proposes to visit the United States of America. He is in possession of a passport. The delegation of the India League consisting of Miss Wilkinson, Miss Whately, Mr. L. W. Matters and Mr. Krishna Menon arrived in India last month.

Mr. Gaya Prasad Singh : Is anybody going to do counter-propaganda on behalf of the Government of India in America ?

The Honourable Mr. H. G. Haig : I am not aware that anybody is going there, unless the Honourable Member himself volunteers for the post. (Laughter.)

APPOINTMENTS IN THE UPPER DIVISION OF THE FINANCE DEPARTMENT.

684. ***Mr. B. N. Misra :** (a) Will Government please state the names of persons appointed to the Upper Division of the Finance Department since 1923, otherwise than by direct recruitment ?

(b) How was the seniority of each person determined ? Was any special concession in the matter of seniority given to any individual ? Was any credit for past service given to these persons for purpose of determining their seniority ?

(c) Is it a fact that persons promoted to the Subordinate Accounts Service and Audit and Accounts Service are given credit for some of their past service for purpose of determining seniority ?

(d) Do Government contemplate reviewing the cases of all the persons appointed to the Finance Department Upper Division otherwise than by direct recruitment, with a view to fixing their seniority afresh by allowing them credit for part of past service ?

(e) How was the pay of the persons fixed ? Was any uniform principle observed ? Is it not a fact that in one case more than treble the

pay in the substantive appointment was given and that in two other cases special increases were sanctioned ? Do Government propose to review all these cases ?

(f) How many of the individuals were promoted within the Finance Department itself ?

The Honourable Sir Alan Parsons : I am unable to put my depleted office to the labour of collecting all these details. If any individual has a grievance with regard to his seniority and pay, there is always a channel by which he can get his grievance investigated.

APPOINTMENTS IN THE UPPER DIVISION OF THE FINANCE DEPARTMENT.

685. ***Mr. B. N. Misra :** (a) Is it a fact that 50 per cent. of the vacancies in the First Division are to be filled by promotion from the Second Division ? How long has the rule been in force ? How many promotions have been made in the Finance Department ?

(b) Do Government contemplate making up the deficiency in the number of Second Division men promoted to First Division by giving all appointments occurring in future to deserving Second Division clerks ?

(c) Do Government propose to take similar action regarding promotions from Third to Second Division ?

The Honourable Sir Alan Parsons : (a) The rule which issued on the 8th December, 1928, is as stated by the Honourable Member, provided suitably qualified persons are available for promotion. Since that date, no permanent promotions have been given, though there have been officiating promotions on three occasions.

(b) and (c). No

DISTRIBUTION OF DUTIES AMONG THE MINISTERIAL STAFF OF THE FINANCE DEPARTMENT.

686. ***Mr. B. N. Misra :** (a) Is it a fact that some Superintendents in the Finance Department do not do any case work themselves ?

(b) Is it also a fact that number of senior Second Division men are employed on Third Division duties in that Department ?

(c) Is it a fact that Third Division men are employed on Second Division duties in the Issue and other Branches of the Finance Department ?

The Honourable Sir Alan Parsons (a) and (c). No.

(b) The question whether the work now performed by some clerks in the second division is of a character which would permit of its being done by third division clerks is under consideration.

DUPLICATION OF WORK IN VARIOUS BRANCHES OF THE FINANCE DEPARTMENT.

687. ***Mr. B. N. Misra :** Are Government aware that there is duplication of work amongst the various Branches of the Finance Department ? Do Government contemplate a detailed inquiry (on which members of the staff are represented) with a view to ensuring a scientific distribution of work ?

The Honourable Sir Alan Parsons : The answer to both parts of the question is in the negative.

QUALIFICATIONS FOR APPOINTMENT AS DISTRICT COMMERCIAL INSPECTORS
ON THE GREAT INDIAN PENINSULA RAILWAY.

688. ***Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether a subordinate aspiring for the post of a District Commercial Inspector on the Great Indian Peninsula Railway is required to have any specific outdoor qualifications and, if so, what they are ;
- (b) whether it is a fact that a register is being maintained for such subordinates in the Chief Traffic Manager's Office with a view to facilitate the selection whenever any vacancies occur ;
- (c) whether it is a fact that an Anglo-Indian working in the staff section of the Chief Traffic Manager's Office of the Great Indian Peninsula Railway and having previous experience of the Claims working only has been recently appointed as a District Commercial Inspector superseding the claims of many other incumbents to the post who have actually been working as Assistant District Commercial Inspector and whose work has been appreciated by their immediate superiors ; and
- (d) whether this subordinate has ever worked on the line and has the requisite outdoor qualifications ?

Mr. P. R. Rau : I have called for the information required and will lay it on the table in due course.

PROMOTION OF HIGHER GRADE POSTS IN THE CHIEF TRAFFIC MANAGER'S
OFFICE, GREAT INDIAN PENINSULA RAILWAY.

689. ***Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) what are the principles on which subordinates are promoted to posts (excluding selected posts) in the higher grades in the Chief Traffic Manager's Office of the Great Indian Peninsula Railway ;
- (b) whether seniority forms a part of selection and, if so how seniority is calculated ;
- (c) whether seniority is based on service or on pay ;
- (d) whether there is one procedure in calculating seniority throughout or whether it differs according to the convenience of the Administration ;
- (e) whether it is a fact that an Anglo-Indian working in the staff section of the Chief Traffic Manager's Office of the Great Indian Peninsula Railway has recently been promoted to the grade of Rs. 80—8—120 ;
- (f) what service this subordinate has put in ;
- (g) what pay was he getting when he was promoted to the new grade ;
- (h) how many subordinates in the grade of Rs. 60—5—80 have reached their maximum in the Chief Traffic Manager's

Office and how many of them and for how many years are they waiting for a promotion ;

(i) whether any of them have proved themselves incompetent for the new post after being given a trial and whether there is anything bad on the record of any one of them barring them for a promotion in the ordinary posts ; and

(j) what special qualifications this Anglo-Indian possessed ?

Mr. P. R. Rau : I have called for the information and will lay it on the table in due course.

PARTICIPATION OF THE GOVERNMENT OF INDIA IN THE OTTAWA CONFERENCE.

690. ***Lala Rameshwar Prasad Bagla :** Will Government please state when they finally decided to participate in the deliberations of the Ottawa Conference as also the date when they made this decision public ?

The Honourable Sir C. P. Ramaswami Aiyar : The attention of the Honourable Member is drawn to the statement on the subject made by Sir George Rainy in this House on the 4th April, 1932.

VIEWS OF INSTITUTIONS AND COMMERCIAL ASSOCIATIONS IN CONNECTION WITH THE OTTAWA CONFERENCE.

691. ***Lala Rameshwar Prasad Bagla :** Will Government please state the names of the institutions including the commercial associations whose views were invited in connection with the Ottawa Conference ?

The Honourable Sir C. P. Ramaswami Aiyar : The Government of India invited the views of the Local Governments and Administrations and of certain Chambers of Commerce and Trades Associations recognised by them. I lay on the table a list of those Chambers and Associations.

List of Chambers of Commerce and Trades Associations in India.

CHAMBERS.

1. Bengal Chamber of Commerce, Calcutta.
2. Bombay Chamber of Commerce, Bombay.
3. Madras Chamber of Commerce, Madras.
4. Burma Chamber of Commerce, Rangoon.
5. Karachi Chamber of Commerce, Karachi.
6. Upper Indian Chamber of Commerce, Cawnpore.
7. Punjab Chamber of Commerce, Delhi.
8. Chittagong Chamber of Commerce, Chittagong.
9. Southern India Chamber of Commerce, Madras.
10. Indian Merchants' Chamber, Bombay.
11. Bengal National Chamber of Commerce, Calcutta.
12. Indian Chamber of Commerce, Lahore.
13. Mysore Chamber of Commerce, Bangalore.
14. Northern India Chamber of Commerce, Lahore.
15. Associated Chambers of Commerce of India and Ceylon, Royal Exchange, Calcutta.
16. Burma Indian Chamber of Commerce, Rangoon.
17. Indian Chamber of Commerce, Calcutta.
18. Federation of Indian Chambers of Commerce and Industry, Delhi.
19. Buyers and Shippers Chamber, Karachi.
20. Bihar and Orissa Chamber of Commerce, Patna.

ASSOCIATIONS.

1. The Calcutta Trades Association.
2. The Bombay Presidency Trades Association, Limited, Bombay.
3. The Madras Trades Association.
4. The Rangoon Trades Association.
5. The Indian Jute Mills Association, Calcutta.
6. The Indian Tea Association, Calcutta.
7. The Bombay Millowners' Association.
8. The Indian Mining and Geological Institute, Calcutta.
9. The Indian Mining Association, Calcutta.
10. The Indian Engineering Association, Calcutta.
11. The All-India Landholders' Association.
12. The Delhi Piecegoods Association, Delhi.
13. Karachi Indian Merchants' Association, Karachi.

Mr. B. Das : Does the list, laid on the table, contain the names of the Indian Chamber of Commerce and the Federation of the Indian Chambers of Commerce ? Did they express any views to the Government in the matter of Ottawa ?

The Honourable Sir C. P. Ramaswami Aiyar : Yes. They were on the list and they have expressed their views.

Mr. B. Das : Did the Federation expressed their views ?

The Honourable Sir C. P. Ramaswami Aiyar : They sent a telegram and also a letter expressing their emphatic views.

SUPPLY OF THE AGENDA OF THE OTTAWA CONFERENCE TO THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY.

692. ***Lala Rameshwar Prasad Bagla :** (a) Is it a fact that the Federation of Indian Chambers of Commerce and Industry requested for a copy of the agenda to be discussed at the Ottawa Conference ?

(b) Did Government send a copy of the above agenda to the Federation ? If not, will Government please state reasons for the refusal ?

(c) Is it a fact that the Indian public opinion in the matter has been passed over by Government ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) Yes.

(b) The Government did not refuse to supply a copy of the agenda list. The list was published simultaneously for general information by all Governments of the Empire as soon as it had been finally settled. Publication was made in India on the 12th July.

(c) Certainly not.

Mr. B. Das : Did the Government supply the agenda to the other Chambers of Commerce ? They did not supply to the Federation. Did they supply it to the Associated Chambers of Commerce ?

The Honourable Sir C. P. Ramaswami Aiyar : It was not necessary to supply that to any particular Chamber of Commerce, because it was given the widest publicity by all the Governments of Great Britain and of the Dominions.

IMPERIAL PREFERENCE.

693. ***Lala Rameshwar Prasad Bagla :** (a) Are Government aware that there is complete unanimity amongst the business community of the country on the point that imperial preference would be anything but advantageous to the country ?

(b) What attitude do Government propose to take in the matter of the imperial preference ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) No, Sir. The information received by the Government of India does not support that conclusion.

(b) I presume the Honourable Member has in mind the trade agreement reached between India and the United Kingdom at the Imperial Economic Conference, Ottawa. His attention in this connection is invited to the statement made by Sir George Rainy in this House on the 4th April, 1932, regarding the participation of India in this Conference and to the Press Communiqué issued by the Government of India in the Department of Commerce on the 20th August, 1932, copies of which are in the Library.

LEGISLATION IN PORTUGUESE EAST AFRICA *re* ENTRANCE OF NEW IMMIGRANTS.

694. ***Lala Rameshwar Prasad Bagla :** (a) Are Government aware of any legislation recently enacted in Portuguese East Africa in connection with the entrance of new immigrants there ?

(b) If the reply to part (a) be in the affirmative, what action, if any, have Government taken or propose to take in regard to it ?

(c) Have Government considered whether the above legislation would give a serious blow to the flourishing Indian trade in that part of Africa ?

Mr. H. A. F. Metcalfe : (a) The Government of India were informed, about six months ago, that legislation was under contemplation in Portuguese East Africa which, if passed, was likely to affect adversely the interests of the British Indian Commercial community in that place. The latest information received is that a decree relating to unemployment dated July 23rd, was published on July 30th, providing *inter alia* that the staff of all firms must consist of at least seventy per cent. Portuguese nationals reduced in certain cases to fifty per cent. Firms failing to establish this percentage within ninety days from the date of publication of the decree are subject to a fine but existing contracts with foreign employees may be completed.

(b) and (c). As soon as these proposals were brought to the notice of the Government of India they requested that urgent representations should be made by His Majesty's Government through the usual diplomatic channels. It is understood that such representations have been made to the Portuguese Government.

Mr. B. Das : May I inquire, Sir, if this action taken by the Portuguese Government is only against Indians or against all parts of the British Empire ?

Mr. H. A. F. Metcalfe : So far as I am aware, it relates to all British subjects including Indians.

Mr. B. Das : Will the Honourable Member kindly convey to the proper channel our view that if the Portuguese Government do not listen to the representation of India and other parts of the British Empire, India is quite prepared to retaliate ?

Mr. H. A. F. Metcalfe : That appears to be a hypothetical question which I can hardly answer, Sir.

Mr. N. M. Joshi : May I ask, what has been the result of the representation made by the Government of India ?

Mr. H. A. F. Metcalfe : So far as I am aware, there has been no definite result at present.

Dr. Ziauddin Ahmad : Will you also communicate to the proper channel the strong resentment in India over this action of the Portuguese Government ?

Mr. H. A. F. Metcalfe : Representations have been made ; and, I think, that is all that I can say without trenching on matters concerning the relations of His Majesty's Government and a foreign Power.

Mr. B. Das : May I ask the Leader of the House, whether, when the Portuguese Government are banning Indian Commercial interests and Indian capital, the Government of India should not also take appropriate steps to ban Portuguese capital and Portuguese people in India ?

The Honourable Sir C. P. Ramaswami Aiyar : Sir, I confess I have been taken somewhat by surprise. But the question of banning Portuguese capital from India—whatever that might amount to—I do not know that there is much of Portuguese capital in India—is a matter for consideration by His Majesty's Government with advertence to the mutual relations between Great Britain and Portugal and is not a matter which can be dealt with either satisfactorily or fully on the floor of this House.

Mr. B. Das : Sir, if any State adopts a discriminatory attitude towards India, cannot India independently adopt a discriminatory attitude towards that foreign State ?

The Honourable Sir C. P. Ramaswami Aiyar : I take it, Sir, that in certain respects and in certain matters India—by which expression is meant the Government of India acting in conjunction with His Majesty's Government—can take action on these lines.

Mr. H. P. Mody : Will the result of the negotiations be made known to either the Assembly or the public ?

Mr. H. A. F. Metcalfe : I want notice of that question, Sir.

Mr. N. M. Joshi : May I ask, whether the Government of India represented to the Portuguese Government that a very large number of Portuguese subjects are employed in Bombay, but that the Indian Government are making no discrimination against them ?

Mr. H. A. F. Metcalfe : That matter, Sir, has been brought to the notice of the Portuguese Government in connection with the representation which I have already told the House about.

Mr. Gaya Prasad Singh : May I know the approximate number of the Portuguese in British India ?

Mr. H. A. F. Metcalfe : I am afraid, Sir, I am not in a position to state that exactly, but I think it is something in the neighbourhood of 7,000 ; but, if the Honourable Member will give notice of that question, I can procure the information.

Mr. N. M. Joshi : Will the information embrace Portuguese subjects or all Portuguese ?

Mr. H. A. F. Metcalfe : It is very difficult to say in all cases whether a person is a Portuguese subject or a Portuguese by origin who has been naturalised. A great many Portuguese Indians are resident in British India, and their exact nationality will be somewhat difficult to discover in any case.

Mr. B. Das : Will the Honourable the Foreign Secretary lay a statement as soon as the negotiations between the British Government and the Portuguese Government are settled ?

Mr. H. A. F. Metcalfe : Any information which can be made available to this House, certainly will be made available as soon as the negotiations are completed. I can say no more at present.

EXPIRY OF THE CONTRACT OF THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

695. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) :
(a) Will Government be pleased to state when the contract expires of the Shahdra-Saharanpur Light Railway ?

(b) Do Government propose to take over the management of this railway after the expiration of the contract ? If not, why not ?

Mr. P. R. Rau : The contract for the construction and working of the Shahdra-Saharanpur Light Railway is between the Light Railway Company and the Government of the United Provinces, and it can be terminated by that Government on the 18th April, 1934, or at the end of every seven years thereafter by giving 12 months' previous notice.

(b) The matter is one that is primarily the concern of the Government of the United Provinces.

Dr. Ziauddin Ahmad : May I ask, how the Government have interpreted the word " even " in this question ?

Mr. P. R. Rau : Which question ?

Dr. Ziauddin Ahmad : Question No. 699.

Mr. P. R. Rau : The question I have just answered is question No. 695. (Laughter.)

Dr. Ziauddin Ahmad : As regards the answer to question 695, I did not follow when this contract is to expire ?

Mr. P. R. Rau : On the 18th April, 1934.

Dr. Ziauddin Ahmad : Do the Government of India contemplate to purchase it ?

Mr. P. R. Rau : I have already informed the House that the contract is between the Government of the United Provinces and the Company and it is that Government which can terminate the contract.

Dr. Ziauddin Ahmad : I thought " Railways " were a Central subject and that the Government of the United Provinces had nothing to do with it ? The Government of India ought to purchase it and should not permit any Province to have its own Railway system.

Mr. P. R. Rau : The contract is between the Government of the United Provinces and the Company.

ADVISORY COMMITTEE FOR THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

696. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) : Will Government please state why there is no Railway Advisory Committee for the Shahdra-Saharanpur Light Railway ?

Mr. P. R. Rau : The question of constituting an Advisory Committee is one for the Managing Agents of the Railway to consider. So far as Government are aware, apart from the principal railways, only two of the smaller lines, have Advisory Committees.

DERAILMENT ON THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

697. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) : (a) Are Government aware that there was a derailment on the 14th July, 1932, due to tampering with rails on the Shahdra-Saharanpur Light Railway ?

(b) Will Government please state why no arrangement for Railway Police has been made on this line ? Are Government aware that there are many thefts on the night trains ?

Mr. P. R. Rau : (a) Government have received a report on the derailment of No. 2-Down mixed train on the 12th July, 1932, as a result of the rails having been tampered with.

(b) The Government of India have no information. I might add that the employment of railway police is a matter for the Local Government.

USE OF OLD CARRIAGES AND BOGIES ON THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

698. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) : Are Government aware that several old carriages and bogies are used on the Shahdra-Saharanpur Light Railway which do not contain any latrines ? If so, why ?

Mr. P. R. Rau : Government have no information. Railways are under no obligation to provide latrines in carriages other than those reserved for women.

Dr. Ziauddin Ahmad : As regards the latter part of question No. 698, the question has already been put in a form to the effect that there are no latrines in third class compartments and that the passengers were put to great inconvenience ?

Mr. P. R. Rau : Yes, Sir, I have already replied to that.

Dr. Ziauddin Ahmad : What was the reply ?

Mr. P. R. Rau : The reply was that the railways are under no obligation to provide latrines in carriages other than those reserved for women.

Dr. Ziauddin Ahmad : Do I understand that the reply was that the railways are not under any obligation to provide latrines in railway compartments ? If this is so, then it means that the railways are under no obligation to look after the comfort of passengers,—and that factor alone should be sufficient ground for terminating the contract with the Company at the earliest possible date ?

Mr. P. R. Rau : That matter is no doubt one which the Government of the United Provinces will take into consideration, but the Government of India have powers, under the Railways Act, only to this extent that they can compel the Railway Companies to provide latrines in compartments reserved for women only.

Dr. Ziauddin Ahmad : I admit that this matter concerns the Government of the United Provinces in the first instance, but the Government of India are the final authority in administrative matters, and their spokesmen cannot, I submit, remain silent on a very important matter where the comforts of passengers are involved ?

Mr. P. R. Rau : Having replied to so many questions by the Honourable Member, it can hardly be said to have remained silent !

Dr. Ziauddin Ahmad : Sir, the Honourable Member says that since he has replied to so many questions, he wishes to reply to no further questions. That attitude, I submit, opens up a very important issue.

Mr. P. R. Rau : My point, Sir, is that I have already answered this question of my Honourable friend.

Dr. Ziauddin Ahmad : Not this particular question ? I am asking this question for the first time.

Mr. P. R. Rau : I have already replied to that question.

ABSENCE OF WAITING ROOMS ON THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

699. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) : Will Government please state why there are no waiting rooms even for first and second class passengers throughout the whole of the Shahdra-Saharanpur Light Railway ?

Mr. P. R. Rau : The provision of waiting rooms at stations is not obligatory on Railways, and the question of providing them is a matter for consideration by each Railway according to the funds available and the requirements of the traffic offering. During 1931-32, the total number of first class passengers carried on the Shahdra-Saharanpur Light Railway averaged less than one in three days and second class passengers about four per day. These figures scarcely justify the provision of waiting rooms for first and second class passengers.

Dr. Ziauddin Ahmad : The Honourable gentleman said that the provision of waiting rooms is not really a function of Railways and that they are not bound to do it. Now, if we, on our part, begin to boycott this particular Railway, will Government then pass an Ordinance ?

(No reply.)

Dr. Ziauddin Ahmad : May I know, what is the reply ?

(No reply.)

FARES ON THE SHAHDRA-SAHARANPUR LIGHT RAILWAY.

700. **Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) : Will Government please state whether the fares on the Shahdra-Saharanpur Light Railway are much higher than on other railways, e.g., $4\frac{1}{2}$ pies per mile is charged for third class, on the former, whereas $3\frac{1}{2}$ pies per mile is charged on other railways ? If so, why ?

Mr. P. R. Rau : Each Railway Company is empowered to charge fares within certain maxima and minima prescribed. On the Shahdra-Saharanpur Light Railway, as in most Railways in India, the maximum third class fare authorised is $4\frac{1}{2}$ pies per mile. Financial and other considerations on Railways prevent absolute uniformity in such matters.

REMOVAL OF INDIAN TELEGRAPHISTS AND SUPERVISORS FROM THE SECTION IN WHICH THE VICEROY'S TELEGRAM TO MAHATMA GANDHI WAS RECEIVED AT THE CALCUTTA END.

701. ***Mr. B. Das** (on behalf of Mr. Amar Nath Dutt) : (a) Has the attention of Government been drawn to the letter published at page 86 of the *Telegraph Review* for March, 1932 ?

(b) Is it a fact that Indian telegraphists and supervisors were removed from the section in which the Viceroy's telegram to Mahatma Gandhi was received at the Calcutta end ?

(c) Will Government please state whether any such order was issued by the authorities ?

(d) If the reply to the above be in the negative, will Government please state who was responsible for this state of affairs ?

(e) What action, if any, has been taken to prevent its recurrence in future ? If not, why not ?

Mr. T. Ryan : (a) to (e). Government have seen the letter in question and have satisfied themselves by inquiry that there is no truth in the statements contained in it.

APPOINTMENT OF MUSLIM ASSISTANT COMMISSIONERS OF INCOME-TAX IN THE PUNJAB.

702. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah :** (a) Is it a fact that since the creation of the Income-tax Department not a single

Muslim has been appointed an Assistant Commissioner of Income-tax permanently in the Punjab ?

(b) If so, are Government prepared to consider the question of giving the very next chance to a Muslim officer ?

(c) Are Government prepared to import a Muslim I. C. S. officer in the Income-tax Department of the Punjab for appointment as Assistant Commissioner ?

The Honourable Sir Alan Parsons : (a) Yes.

(b) Promotion to the post of Assistant Commissioner of Income-tax is made on the basis of seniority and merit and the claims of any suitable Muslim Income-tax Officers will be duly considered when the occasion next arises. Since 1926, however, no permanent vacancy in the post of Assistant Commissioner has occurred.

(c) No.

PAUCITY OF MUSLIM INCOME-TAX OFFICERS IN THE PUNJAB.

703 **Khan Bahadur Makhdum Syed Rajan Bakhsh Shah :** (a) What is the number and percentage of Muslims in the permanent cadre of income-tax officers (excluding Assistant Income-tax officers) in the various provinces of India ?

(b) Is it a fact that the number of the Muslim Income-tax officers is not even 33 per cent. of the total cadre of the Income-tax officers serving in the various provinces of India ?

(c) What steps have Government so far taken to make up this long-standing deficiency of the Muslims in this department ?

(d) What steps do Government propose to take in the matter ?

(e) Are Government prepared to raise the number of Muslim Income-tax officers to at least 50 per cent. of the total number in the Punjab and to reserve all future vacancies for the Muslims till this proportion is achieved ?

The Honourable Sir Alan Parsons : (a) A statement giving the figures required is laid on the table.

(b) The position is as stated, if the figures for India as a whole are taken into account.

(c), (d) and (e). Commissioners of Income-tax are required to follow the general orders laid down by Government. These orders prescribe that one-third of the vacancies should be filled from minority communities, but no percentage has been fixed for any particular minority community. They do not allow of an increase in the proportion of vacancies to be filled from minority communities on account of ill-balanced recruitment that may have occurred in the past. To adopt the suggestion implied in the Honourable Member's question, therefore, would be contrary to the policy of Government.

Statement showing the Communal composition of Income-tax Officers in the various provinces in India on 31st December, 1931.

	Total number of posts.	Number held by Muslims.	Percentage.
Madras	51	5	10
Bombay	48	4	8·3
Bengal	59	15	25
United Provinces	41	14	33
Punjab	30	6	20
Burma	42	1	2·3
Bihar and Orissa	18	1	5·5
Central Provinces	16	1	6·25
Assam	6	1	16·7
North-West Frontier Province	4	2	50
Delhi	3	1	33·3
Total	318	51	16

PAUCITY OF MUSLIM INSPECTORS AND CLERKS IN THE INCOME-TAX DEPARTMENT IN THE PUNJAB.

704. **Khan Bahadur Makhdum Syed Rajan Bakhsh Shah :** (a) What is the total number of the permanent Inspectors and permanent clerks in the Income-tax Department in the Punjab and how many of them are Muslims in each cadre ?

(b) Is it not a fact that the Muslims are inadequately represented in these cadres in the Punjab ?

(c) Are Government prepared to raise their number at least to 50 per cent. in the Punjab ?

The Honourable Sir Alan Parsons : (a) A statement giving the information required is laid on the table.

(b) No.

(c) I would invite the Honourable Member's attention to the answer which I have given to parts (c), (d) and (e) of his previous question relating to the number and percentage of Muhammadans in the permanent cadre of Income-tax Officers in the various provinces of India.

Communal composition of the Non-gazetted staff of the Income-tax Department, Punjab, on the 31st December, 1931.

	Total number.	Number of Muslims.
1. Inspectors	34	10
2. Clerks	161	46

**PAUCITY OF MUSLIM INSPECTORS AND CLERKS IN THE INCOME-TAX DEPARTMENT
IN THE PUNJAB.**

705. *Khan Bahadur Makhdum Syed Rajan Bakhsh Shah : (a) Is it a fact that with the lowering of the taxable limit for income-tax purposes, new staff was recruited in 1931 and this year ?

(b) What was the total number of the new recruits, both Inspectors and clerks in the Punjab, and how many of them were Muslims ?

(c) Did Government keep in view the deficiency of the Muslims in this department in filling the new temporary vacancies ?

The Honourable Sir Alan Parsons : (a) Yes.

(b) Twenty three new appointments of Income-tax Inspectors were made in the Punjab in 1931-32 of which eight were given to Muhammadans.

One hundred and twelve new appointments of Assistant Clerks were made in the Punjab in 1931-32, fifty seven of which were given to Muhammadans.

(c) Yes.

**MUSLIM EXECUTIVE AND MINISTERIAL STAFF IN THE OFFICE OF THE INCOME-TAX
COMMISSIONER, PUNJAB.**

706. *Khan Bahadur Makhdum Syed Rajan Bakhsh Shah : (a) What is the total strength of the executive and ministerial staff employed in the office of the Income-tax Commissioner, Punjab, and what is the number of Muslims in the two branches respectively ?

(b) Are Government prepared to instruct the Commissioner to maintain a fair communal proportion in his office so that there may not be any cause for grievance to any community ?

The Honourable Sir Alan Parsons : (a) The total strength of the executive and ministerial staff employed in the office of the Commissioner of Income-tax, Punjab, North-West Frontier and Delhi Provinces is two and nine, respectively. No Muslims are employed in the executive branch, but four are in the ministerial branch.

(b) The communal proportion is considered with reference to the Department as a whole and not with reference to individual offices.

**RELEASE OF AHRAR PRISONERS CONVICTED IN CONNECTION WITH THE KASHMIR
TROUBLES.**

707. *Khan Bahadur Makhdum Syed Rajan Bakhsh Shah : (a) Are Government aware that almost all the Ahrar prisoners who were confined in the Kashmir and Jammu State jails were let off long ago by His Highness the Maharaja of Kashmir ?

(b) If so, are Government prepared to follow the Maharaja's example and release all prisoners who were convicted in British India in connection with the Kashmir troubles ?

--- **The Honourable Mr. H. G. Haig :** (a) I have seen a communiqué on the subject issued by the Kashmir Darbar.

(b) The Punjab Government have considered the cases of Ahrar prisoners who apologised and promised to take no further part in the movement, and a very large number of prisoners has been so released.

PAUCITY OF MUSLIMS IN VARIOUS DEPARTMENTS OF THE GOVERNMENT OF INDIA
SECRETARIAT.

708. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah** : (a) Has the attention of Government been drawn to a letter published in the *Eastern Times*, Lahore, dated 7th August, 1932, on page 3, with regard to the paucity of Muslims in the various departments of the Government of India Secretariat ?

(b) What steps do Government propose to take to raise the number of Muslims to an equitable proportion ?

(c) Are Government prepared to issue definite orders to the various heads of departments and the members of the Public Service Commission to reserve all future vacancies for Muslims until their number is raised at least to 33 per cent. in the various services ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) and (c). I would refer the Honourable Member to the reply given on the 27th January last to parts (c) and (d) of Seth Haji Abdoola Haroon's starred question No. 76.

RESOLUTIONS PASSED BY THE INDIAN POSTS AND TELEGRAPHS MUSLIM UNION,
PUNJAB AND NORTH-WEST FRONTIER CIRCLE, LAHORE.

709. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah** : (a) Has the attention of Government been drawn to resolutions passed by the Indian Posts and Telegraphs Muslim Union, Punjab, and North-West Frontier Circle, Lahore, and published on page 5 (columns 4 and 5) of the *Eastern Times*, dated 13th August, 1932 ?

(b) What steps do Government propose to take to remedy the grievances of the Muslim community enumerated in those resolutions ?

The Honourable Sir Frank Noyce : (a) Government have seen the Resolutions.

(b) The Indian Posts and Telegraphs Muslim Union is a body which has not been officially recognised by Government. If Muslim employees in the Posts and Telegraphs Department have grievances, it is open to them to represent them in the usual manner.

†710. *

†711. *

LANGUAGES RECOGNISED BY THE MILITARY ACADEMY, DEHRA DUN.

712. ***Dr. Ziauddin Ahmad** : (a) Will Government be pleased to state the languages (European and Indian), which are recognised by the Military Academy, Dehra Dun ?

(b) Is it a fact that Arabic is omitted from the list ?

(c) What are the reasons for its omission ?

Mr. G. R. F. Tottenham : (a) English, French and German.

(b) Yes.

(c) The syllabus for the entrance examinations follows that proposed by the Indian Military College Committee. I understand that their reason for omitting Arabic was that there were so many Oriental languages that

†This question was withdrawn by the questioner.

it would be impossible to include them all and, therefore, that it would be fairer not to include any.

Dr. Ziauddin Ahmad : May I ask, Sir, what is the difficulty in including Arabic as an alternative subject ?

Mr. G. R. F. Tottenham : Arabic is not included at all.

Dr. Ziauddin Ahmad : Can the Honourable Member give me the reasons for excluding this very important language from the list ?

Mr. Gaya Prasad Singh : Also why have they excluded Sanskrit ?

Dr. Ziauddin Ahmad : In view of the fact that Sanskrit and Persian are both included and only Arabic is excluded, I want to know why this particular language is excluded ?

Mr. G. R. F. Tottenham : As I have said, all the Oriental languages are excluded.

NUMBER AND PERSONNEL OF COMMITTEES FORMED BY THE RAILWAY BOARD.

713 ***Dr. Ziauddin Ahmad :** How many Committees were formed by the Railway Board since 1925 to enquire into any affair connected with Railways ? In how many of them was any non-official associated as a member of the Committee ?

Mr. P. R. Rau : I lay on the table a statement giving the required information.

Statement showing the particulars of committees appointed since 1925.

Description of Committees.	Members of Committee.		Year in which appointed.
	Officials.	Non-officials.	
1. <i>State Railway Workshops Committee.</i> —To investigate the problem of co-ordinating the repair facilities for locomotives and rolling stock on the State-managed Railways.	Mr. J. M. D. Wrench ..	Sir Vincent Raven.	1926
2. To frame detailed rules for fixing the seniority in the different grades of the subordinate establishment of the Railway Clearing Accounts Office.	Mr. M. K. Mitra .. Mr. H. W. Firth. Mr. R. G. Vernon. Mr. S. N. Ghose. Mr. H. O. Callaghan.	<i>Nil</i>	1928
3. To enquire into and report on the system of checking and collecting tickets on the East Indian Railway.	Mr. B. Moody .. Mr. H. G. Ward.	<i>Nil</i>	1930
4. To enquire into intermediate costs of transport.	Mr. A. Dale-Green .. K. B. Maulvi Fateh-ud-Din.	<i>Nil</i>	1931
5. The co-ordination of road and rail requirements.	Mr. K. G. Mitchell .. Mr. L. H. Kirkness.	<i>Nil</i>	1932

NUMBER OF INDIANS RECRUITED FOR THE SASTRI COLLEGE IN SOUTH AFRICA.

714. *Dr. Ziauddin Ahmad : How many Indians were recruited for the Sastri College in South Africa ? Is it a fact that all those Indians have now been sent away ? Is any Indian left in the Sastri College ?

Mr. G. S. Bajpai : Six Indian teachers, selected by the Government of India, were deputed to fill up appointments at the Sastri College. According to the terms of their appointment, their services do not terminate before the 31st December, 1932, and Government are not aware that any of them has been sent away. They are, however, making inquiries in the matter through their Agent in South Africa.

Mr. B. Das : Will the Honourable Member inform the Agent-General that public opinion in India wishes that there should be a continuity of Indian teachers in the Sastri College ?

Mr. G. S. Bajpai : I do not think it is necessary to bring that elementary fact to the notice of the educational authorities in Natal. They no doubt realise the value of continuity.

Dr. Ziauddin Ahmad : My information is that these Indians are being sent away. Will the Honourable Member kindly make an inquiry in the matter and communicate the result to the Members of the Assembly ?

Mr. G. S. Bajpai : I have already stated that I am making inquiries through the Agent and the result will be communicated to the House.

Dr. Ziauddin Ahmad : Thank you.

INTRODUCTION OF DISTANCE TESTS FOR EYE SIGHT FOR THE TRAVELLING TICKET EXAMINERS OF THE EAST INDIAN RAILWAY.

715. *Dr. Ziauddin Ahmad : Is it a fact that East Indian Railway administration has recently introduced for T. T. E.'s a distance test (A1. A2) for eye sight usually intended for guards ? If so, why ?

Mr. P. R. Rau : Travelling Ticket Examiners on the East Indian Railway have till now been placed in category A2 for purposes of the vision test, but the question of transferring them to category B1 is, at present, under consideration.

PROPOSED ABOLITION OF THE ALLAHABAD DIVISION OF THE EAST INDIAN RAILWAY.

716. *Dr. Ziauddin Ahmad : Are the Railway Board contemplating to abolish the Allahabad Division on the East Indian Railway ?

Mr. P. R. Rau : The question, whether a reduction is possible in the number of divisions on Railways on which the Divisional System exists, is under consideration in accordance with the recommendations of the Railway Retrenchment Sub-Committee.

Dr. Ziauddin Ahmad : May I ask, Sir, which was this Retrenchment Sub-Committee ? Is it the one of which I was a Member ?

Mr. P. R. Rau : Yes, Sir.

Dr. Ziauddin Ahmad : Is it not a fact that we discussed the question whether all these divisions should be abolished and probably the recommendation was to the effect that the fact that all the divisions should be

abolished, should be considered. I think the recommendation was that either the agencies should be abolished or the divisions should be abolished. To have agencies as well as divisions, as at present, is an expensive luxury.

Mr. P. R. Rau : My recollection is that the recommendations of the Sub-Committee are different.

RECRUITMENT OF STAFF OF INFERIOR CALIBRE FOR CLERICAL SERVICES IN THE POST OFFICES.

717. ***Mr. B. Rajaram Pandian :** (a) Will Government be pleased to state whether it is a fact that graduates and undergraduates were not recruited as candidates for clerical service in the Post Office during the year 1931, as per Government order, while those who passed barely the S.S.L.C. examination were recruited ?

(b) If so, are Government prepared to advise the Director General of Posts and Telegraphs to restore such graduates and undergraduates as were adversely affected by the above order to the position in the gradation or waiting list, which they would have held but for that restriction ? If not, why not ?

(c) Are Government prepared to advise the Director General to issue instructions to all the Postmasters General that such candidates should be exempted from the age limit of 25 years for at least one year, i.e., the period during which the above order was in force ?

The Honourable Sir Frank Noyce : (a) Yes, for about seven months in the year 1931, under the Director-General's orders.

(b) No, the action suggested would be impracticable.

(c) No.

RECRUITMENT OF SONS AND NEAR RELATIVES OF POSTAL EMPLOYEES IN THE POST OFFICES.

718. ***Mr. B. Rajaram Pandian :** (a) Will Government be pleased to state if they are aware that well qualified sons and near relatives of Postal employees in the clerical cadre on the verge of retirement do not get employment in the Department owing to various restrictions and the personal inclinations of appointing officers, while outsiders of inferior qualifications are more easily taken ? If so, for what reason ?

(b) Do Government propose to advise the Director General to relax the restrictions against the recruitment of such candidates and to issue instructions to appointing officers to see that every reasonable facility is afforded for the entertainment of sons and near relatives of employees in preference to outsiders ?

Mr. T. Ryan : (a) The reply to the first part is in the negative. The last part does not arise.

(b) There are no restrictions against the recruitment of such candidates. On the contrary, the Director-General has recently issued instructions which, in certain cases, give preferential treatment to their claims.

RECRUITMENT OF SONS AND NEAR RELATIVES OF POSTAL EMPLOYEES IN THE POST OFFICES.

719. ***Mr. B. Rajaram Pandian** : (a) Will Government be pleased to state if it is a fact that candidates have recently been removed from the waiting list of appointing officers in Post Offices owing to the fact that they have completed 25 years of age ?

(b) If so, are Government prepared to consider the advisability of instructing the Director General to keep such candidates in the waiting list up to the maximum limit permissible over and above 25 years of age, at least in the case of sons and near relatives of Postal employees ?

Mr. T. Ryan : (a) If the Honourable Member refers to approved candidates for appointment to the clerical cadre, Government understand that the fact is substantially as stated.

(b) I have recently instructed Heads of Circles to exercise a liberal discretion in the matter of waiving the age restriction in respect of such candidates.

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

720. ***Mr. Gaya Prasad Singh** : Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February, 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ Reply Hoare circulated House Commons 15th instant on political situation India which indicated improvement from Government point of view several respects incorrect and misleading.

Hoare admitted boycott now chief activity Congress. This been so since commencement civil disobedience movement this time and it has shown no sign slackening contrary been deepening penetrating interior all parts country. In towns generally large number merchants not placing orders foreign cloth British goods. In number places they separated sealed up such goods in stock at others this work proceeding with help peaceful picketing quiet house to house persuasion as things going on may safely assumed unless great change public sentiment such as brought about by Irwin-Gandhi Pact, despite all Ordinances measures repression, sale British cloth other goods will continue running downward course—women playing most important part this phase movement.” ?

Mr. T. Ryan : With your permission, Sir, I propose to reply to questions Nos. 720 to 727 together.

The foreign message, extracts from which appear in these questions, was not transmitted for the reasons explained in my reply to question No. 922 asked on the 24th March, 1932, by the Honourable Member during the last Session of the Assembly.

Mr. B. Das : Is it not a fact that at the time the Government of India were writing Despatches to the Secretary of State to the effect that all was quiet on the Indian Front and that the Civil Disobedience Movement and the Congress movement had subsided, Pandit Malaviya despatched a telegram which, however, was not allowed to be sent, and is it not a fact that if that telegram had reached England, it would have revealed a different picture and that was the reason why that telegram was intercepted ?

The Honourable Mr. H. G. Haig : If the suggestion is that the telegram was withheld at the instance of the Home Department, I must assure my Honourable friend that the Home Department knew nothing about it.

Mr. B. Das : I meant, at the instance of the Government of India.

Mr. T. Ryan : The reason why the message was not transmitted was that it was not sufficiently paid for.

Mr. S. C. Mitra : Are not some of these Press messages sent to the Home Department for censorship as well as to the Postal Department for the same purpose ?

Mr. T. Ryan : The sole reason why this message was withheld was that it was not adequately paid for ; no other objection was taken to it and no question of censorship was involved.

Mr. B. R. Puri : Was the sender informed that it was inadequately paid for ?

Mr. T. Ryan : Yes, Sir. He declined to pay the full amount due and he also accepted a refund of the quite inadequate sum he had paid for it.

Mr. Gaya Prasad Singh : Did the Telegraph Master accept the telegram in the first instance, and then refer the question of its despatch to some other authority, and then, as a result of that consultation, withheld the telegram ?

Mr. T. Ryan : No, Sir. I have already explained the case in reply to a previous question on this subject. The telegram was first accepted by mistake. Very shortly afterwards, it was found, without enquiry from any other authority, that the Pandit was not an accredited correspondent of the foreign newspapers to which the telegram was addressed. The Pandit was thereupon asked, or his representative was asked, to pay the amount which would have been due for sending the message as a private one. He declined to do so and the message was, for that reason, stopped. For the Honourable Member's further satisfaction, I may state that we had actually made special arrangements to ensure rapid transmission of that message to Bombay and its transmission had just begun when this mistake of inadequate payment was found out. The withholding of the message had nothing to do with censorship. The mistake was discovered while the message was being despatched.

Mr. Gaya Prasad Singh : Do I understand that the message was duly accepted, that money was also accepted, and a receipt was given to the sender of the telegram ?

Mr. T. Ryan : I have no precise information as to whether a receipt was given. I presume so : the money was accepted by mistake and that mistake was subsequently rectified by refunding the money which was accepted by the sender.

Sirdar Harbans Singh Brar : Why should not the Government suffer for the mistakes of its subordinates rather than the public ?

Mr. T. Ryan : I do not understand how the public did suffer. The tax-payer would have suffered if that message had been transmitted, because we would have had to pay a large sum of money to the Cable Company against which we had practically no receipt.

Sirdar Harbans Singh Brar : You should have debited the amount to the salary of the clerk who first accepted the telegram ; when you give promotion for good work, you should punish for bad work also.

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†721. ***Mr. Gaya Prasad Singh :** Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 24th February, 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ Other directions also movement going stronger spirit resistance unjust oppressive orders stiffening extending. Repression only fanning fire and though owing concerted police military action demonstrative side movement is this time much less in evidence actual strength far greater than before. Unauthorised manufacture salt revived places where police resisted. Magisterial and police orders being violated all over India. Meetings processions being attempted despite magisterial ban lathi charges and even firing. Government agencies been most active. According reports daily press published under Ordinance regime total number arrests all over India to date 46,531 which in nature circumstances cannot include large number arrests in far-off villages in interior. Congress estimates total arrests to date over sixty thousand. Hoare admitted generally there have been very few instances violence. Yet firing on crowds which been almost always peaceful has been resorted to more frequently during last thirty days than before. Lathi charges have continued several places given up at others as Government evidently begun realise these failed crush spirit people. But both lathi charges imprisonment have been substituted large measure by mean petty repression with a view torture humiliate, and by brutal action to demoralise people. Some instances given below.” ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†722. ***Mr. Gaya Prasad Singh :** Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February, 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ In two places Gujarat villagers not allowed carry water to wash after attending calls nature which is life-long practice. Police tore off clothes left people naked. In Bombay Cawnpore on mere suspicion that they sympathised with Congress respectable merchants served with humiliating orders remain inside or go out certain limits on refusal comply been sentenced long terms imprisonment fines treated jails as ordinary felons. In Bihar volunteers stripped one man's moustaches pulled out. National flags removed several municipal buildings. Father sentenced six months' rigorous imprisonment for refusing payment son's fine. Public spirited institutions not connected Congress declared illegal. Arrests on suspicion going on. Shopkeepers, hotel-keepers arrested warned against providing Congresswallas food shelter.” ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†723. ***Mr. Gaya Prasad Singh :** Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February, 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ In Calicut lady sentenced imprisonment deprived of Mangalsutram by Magistrate's order which never taken off life-time of husband. In Madras ambulance men caned while offering help to volunteer rendered senseless by police beating. General censorship established all over country complete censorship North-West Frontier public press gagged editors told not publish photographs or names of persons.

†For answer to this question, see answer to question No. 720.

connected movement. Khudai Khidmatgars Frontier subjected inhuman tortures. Am informed volunteers Peshawar been subjected such brutal revolting repression that finding it absolutely unbearable, and yet determined keep their vow non-violence under gravest provocation many left Peshawar to carry on work elsewhere. This can hardly be called improvement situation. These reports and reported large number deaths caused by firing Frontier Province alone discloses situation grave enough to call for independent inquiry.” ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†724. *Mr. Gaya Prasad Singh : Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ Hoare reported no-rent campaign abandoned United Provinces. If so, why repression not stopped ? In Allahabad district authorities have raided villages with police help practised much oppression. Many places properties worth several hundreds been attached for rent few annas leaving kisans utterly destitute, villagers been mercilessly beaten notwithstanding all this resistance growing stronger. Large numbers left homes lying under trees yet carrying on processions meetings all parts realisation rent small. Properties relations seized by police for fines of volunteers. Ladies taken in lorries several miles dropped out of way uninhabited places.” ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†725. *Mr. Gaya Prasad Singh : Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ Volunteers beaten half-dead then left on road stripped of all clothes. Two persons tied behind a horse cart mercilessly dragged long distances and whipped on demanding water. Persons beaten even after their becoming senseless. Hospitals closed patients turned out. Educational institutions also declared illegal. Even small boys whipped. Some persons interned their own houses eighty years old lady jailed. Belongings, Swadeshi League Allahabad forcibly seized. Films featuring Gandhi Sardar Patel banned. Many Charkha Sangha Khaddar Bhandars seized. Manager of one arrested for selling flags. 12 years' boy asked furnish security on refusal awarded years imprisonment. President, Trade Union attacked by police in his own house received lathi blows. 60 girls Bethune College rusticated for absenting from College in sympathy fellow-student rusticated for participating Congress hartal. Headmasters of schools Allahabad ordered by District Magistrate spy on their boys who may attend Congress meetings or processions. Notwithstanding all this number students joined movement many more likely join in few weeks when schools colleges close for long vacations.” ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†726 *Mr. Gaya Prasad Singh : Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

“ Merchants Cawnpore, Allahabad, Benares, Calcutta ordered by Magistrates not close down shops on Congress hartal days order disregarded hartal even more effective than before. Magistrates helpless in view united action shopkeepers. Reported convicted persons being treated callously inside several jails as ordinary

†For answer to this question, see answer to question No. 720.

felons. Many cases private funds belonging individuals and funds belonging public institutions confiscated or ordered not to be used on mere suspicion they may be used Congress purposes. Impossible convey complete ideas repression. But the very large number of persons arrested and imprisoned and reports in Press show far from having cowed down the people, severe and rigid measures adopted and sufferings inflicted upon people have only stiffened their backs and aroused spirit of resistance among them to join movement in unprecedented numbers country as a whole seething with bitter discontent. Even those who not Congressmen and who so far never concerned themselves with politics are sympathising with movement and helping it where they can trade and business being ruined." ?

INTERCEPTION OF A PASSAGE FROM PANDIT MADAN MOHAN MALAVIYA'S MESSAGE.

†727. *Mr. Gaya Prasad Singh : Will Government kindly state whether the following passage from Pandit Madan Mohan Malaviya's message, dated the 28th February 1932, was intercepted or not despatched ? If so, will Government please state the reasons for doing so ?

"Prestige of Government been lowered as never before. Financial bankruptcy overtaking Government. Present policy has now been sufficiently tried proved be utterly ineffective for suppressing determination people win freedom their country. Not only on grounds humanity justice but also lower selfish grounds trade relations Britain and Indian Parliament should insist immediate abandonment present policy and on undoing so far as possible the wrong than been done India in pursuit that policy and on resumption policy conciliation and co-operation on footing of real equality with India's accredited representatives to establish full swaraj at earliest possible date. Please circulate." ?

PROPOSED REMOVAL OF THE RAILWAY CLEARING ACCOUNTS OFFICE FROM DELHI TO LUCKNOW.

728. *Mr. N. M. Joshi (on behalf of Mr. S. G. Jog) : (a) Will Government please state whether there is any proposal or suggestion for removing the Railway Clearing Accounts Office from Delhi to Lucknow ?

(b) If there be any such proposal will Government state the reasons for taking this step ?

(c) Is it not a fact that the Railway Clearing Accounts Office has been recently brought to Delhi because it is a central place and the seat of the Government of India ?

Mr. P. R. Rau : (a) There is no such proposal or suggestion under the consideration of Government at present.

(b) Does not arise.

(c) The office was established at Delhi as central from the point of view of most of the railways who were parties to the Clearing House. The fact that Delhi was the seat of the Government of India was not one of the reasons that influenced the decision.

INDO-BRITISH TRADE AGREEMENT PASSED AT OTTAWA.

729. *Mr. S. G. Jog : When do Government propose to place before the Assembly the full text of the Indo-British Trade Agreement passed at Ottawa ?

The Honourable Sir C. P. Ramaswami Aiyar : The Government of India expect to be in a position to publish before long the full text of the

†For answer to this question, see answer to question No. 720.

Agreement referred to and they intend to place their proposals in regard to the Agreement before the Legislature early in November next.

TRADE AGREEMENTS SIGNED AT OTTAWA.

730. ***Mr. S. G. Jog** : Are Government aware of the agreements entered into between different other countries ? If so, do Government propose to place before the Assembly the texts of all such agreements with a view to examining the effects of those agreements on India ?

The Honourable Sir C. P. Ramaswami Aiyar : The full text of the Agreements between His Majesty's Governments in the United Kingdom and in the Dominions are not yet available to the Government of India, but they hope to be in a position to place these in the hands of the Members of the Legislature before the Legislature is asked to approve the Agreement made between His Majesty's Government in the United Kingdom and the Government of India.

GOVERNMENT POLICY *re* INDO-BRITISH TRADE AGREEMENT PASSED AT OTTAWA.

731. ***Mr. S. G. Jog** : Are Government prepared to make a statement giving the general policy of Government with respect to the Indo-British Trade Agreement ?

The Honourable Sir C. P. Ramaswami Aiyar : With your permission, Sir, I will answer questions Nos. 731 and 732 together. The Government of India are not yet in a position to make a statement.

INDO-BRITISH TRADE AGREEMENT PASSED AT OTTAWA.

†732. ***Mr. S. G. Jog** : Will Government make a statement as to the procedure Government intend to follow in respect of the Indo-British Trade Agreement ?

COMMITTEES FOR EXAMINATION OF THE INDO-BRITISH TRADE AGREEMENT PASSED AT OTTAWA.

733. ***Mr. S. G. Jog** : Do Government propose to set up different committees for examining the details of the Indo-British Trade Agreement in regard to the several commodities and interests involved ?

The Honourable Sir C. P. Ramaswami Aiyar : The procedure which will be adopted in placing the Agreement before the Legislature has not yet been decided.

REFUSAL TO PAY COMPENSATION UNDER THE WORKMEN'S COMPENSATION ACT FOR LEAD-POISONING TO CERTAIN GOVERNMENT OF INDIA PRESS EMPLOYEES.

734. ***Mr. S. C. Mitra** : (a) Is it a fact that the Managers of the Government of India Presses at Calcutta, Delhi, Simla and Aligarh refused to pay compensation under the Workmen's Compensation Act to some of the employees who were attacked with lead-poisoning ?

(b) If the answer to part (a) is in the affirmative, will Government state the reason in each case ?

†For answer to this question, see answer to question No. 731.

The Honourable Sir Frank Noyce : (a) and (b). The Government of India are aware of only two cases in which men belonging to the Government of India Presses had difficulty in obtaining compensation for lead-poisoning. In one of these, there was some delay in granting compensation as the medical authorities expressed themselves unable to form any estimate of the degree of permanent loss of earning capacity caused to the man by the disease. A further medical report containing the required information was, however, called for and has since been obtained and orders sanctioning the payment of compensation have issued. In the second case, the report from the medical authority concerned contained no information that the man was suffering from lead-poisoning. A subsequent examination by a medical board has brought to light the existence of lead-poisoning. This case is under consideration by the Government of India and early orders will be passed.

DEDUCTION FROM PAY OF PIECE-RATED EMPLOYEES OF THE GOVERNMENT OF INDIA PRESSES.

735. ***Mr. S. C. Mitra :** (a) Is it not a fact that in reply to question No. 198 (f), dated 18th March, 1932, the Honourable Sir Joseph Bhore stated that the wages of the daily or piece-rated employees do not come under the definition of "pay" unless classed as such by the Governor General in Council ?

(b) Is it not a fact that the earnings of the piece-rated employees have not been classed as "pay" by the Governor General in Council ?

(c) Is it not a fact that the piece-rated employees of Government Presses are subjected to the emergency cut in pay of ten per cent. like the salaried staff ?

(d) Is it not a fact that the Honourable Sir Joseph Bhore stated on 18th March, 1932, that the question of the emergency cut in pay of ten per cent. of the piece employees of the Government of India Presses is being considered by Government ?

(e) Is it not a fact that no decision has yet been arrived at by Government on the point mentioned in part (d) ?

(f) If so, will Government be pleased to state the reasons for this delay ? When is the decision expected to be arrived at ?

The Honourable Sir Frank Noyce : (a), (b), (c) and (d). Yes.

(e) and (f). In a letter dated the 21st June, 1932, the Government of India informed the Controller of Printing and Stationery *inter alia* of their decision that the emergency cut in pay should apply to the total earnings including overtime allowance of the piece-workers of the Government of India Presses.

MEMORIALS BY PIECE-WORKERS OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA, FOR EXEMPTION FROM THE TEN PER CENT. CUT.

736. ***Mr. S. C. Mitra :** Is it not a fact that all the piece-workers of the Government Press at Calcutta submitted individual memorials to the Honourable Member in charge of the Department of Industries and Labour, through the proper channel in March, 1932, praying for exemption

from the provision of ten per cent. cut on their earnings? If so, will Government be pleased to state what action has been taken in the matter? If not, why not?

The Honourable Sir Frank Noyce : Individual petitions from a number of piece-workers of the Government of India Press, Calcutta, were received and given careful consideration. Government were, however, unable to accede to the request that they should be exempted from the cut.

MEMORIALS BY THE TEMPORARY EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA, FOR MAKING THEIR POSTS PERMANENT.

737. ***Mr. S. C. Mitra :** (a) Is it not a fact that most of the binders and compositors of the Government Press at Calcutta with long standing services ranging from 15 to 22 years are still on the temporary staff?

(b) Is it not a fact that these temporary hands are debarred from enjoying the advantages of Government service—such as medical leave, leave on average pay, etc.?

(c) Is it not a fact that Mr. C. T. Letton, the then Manager, Government Press at Calcutta, informed the temporary hands in his note, dated 23rd July, 1930, that “the Government are now considering the question of making nearly all the posts in the Press permanent. I am certain that all those who can claim a fair amount of service will have their posts converted to permanent posts before very long”?

(d) Is it not a fact that the temporary hands of the Government Press at Calcutta submitted individual memorials to the Honourable Member in charge of the Department through the proper channel in December, 1931, praying for making the posts permanent stating therein their grievances in detail?

(e) If the answers to parts (a) to (d) are in the affirmative, will Government be pleased to state (i) whether these temporary hands are going to be made permanent before very long, and (ii) what action has been taken on the memorials? If not, why not?

The Honourable Sir Frank Noyce : (a) Yes.

(b) These temporary men, who are piece-workers, are entitled to 16 days' leave on full pay in a year to cover absences on account of holidays, sickness or leave.

(c) Government understand that Mr. Letton's note was recorded with reference to memorials submitted from employees in the book-binding department.

(d) Yes.

(e) The memorials are still under consideration.

DELEGATION OF THE EUROPEAN ASSOCIATION TO THE HOME MEMBER OF THE BOMBAY GOVERNMENT.

738. ***Sardar Sant Singh :** (a) Is it a fact that an address was presented to the Honourable Mr. G. A. Thomas, Home Member to the Government of Bombay at Poona on the 15th October, 1931, by the Europeans?

(b) Is it a fact that the delegation of the Europeans produced evidence regarding picketing of shops at Sholapur which was specifically aimed at

certain European-managed Indian mills and regarding definite breaches of the Delhi Pact ?

(c) Is it a fact that the delegation requested the Home Member to obtain a definite ruling as to the exact meaning of clause 6 of the Irwin-Gandhi Pact from the Government of India ? If so, was any such enquiry made by the Home Member to the Government of Bombay from the Government of India ? If so, will Government kindly lay on the table the correspondence that took place between the Home Department of Bombay and the Government of India on the subject ?

(d) Is it a fact that in consequence of the representation of the European community some circular was sent by the Government of India to the Provincial Governments on the subject ? If so, will Government kindly lay the same on the table ?

The Honourable Mr. H. G. Haig : (a) and (b). Yes.

(c) I would refer the Honourable Member to the reply I gave on the 5th September to parts (a), (c) and (d) of Mr. Gaya Prasad Singh's question No. 19.

(d) No instructions of the nature referred to were issued by the Government of India.

DELEGATION OF THE EUROPEAN ASSOCIATION TO THE HOME MEMBER OF THE BOMBAY GOVERNMENT.

739. *Sardar Sant Singh : (a) Is it a fact that the Bombay Government conveyed to the Government of India the suggestion of the delegation in October last of the European Association to the Home Member of the Bombay Government to take firm and immediate action in the event of the recrudescence of the civil disobedience movement ?

(b) If the answer to part (a) is in the affirmative, will Government be pleased to state whether it is a fact that certain suggestions for meeting the contingency were embodied therein ?

(c) Is it a fact that when this delegation was making such suggestions to Government, the Round Table Conference was sitting in London with a view to conciliate the school of thought represented by the Congress in order to make them agree to accept the policy of His Majesty's Government in the matter of the amendment of the future Government of India Act ?

(d) Is it a fact that amongst the suggestions it was represented that the breaking out of the civil disobedience movement should be " regarded as a direct challenge to the Government and that prompt and decisive measures must be taken to suppress the Congress " and that " if the revolutionary movement (civil disobedience movement) again gets under way, their action must be prompt, vigorous and even ruthless. Congress must not be given time for the full mobilisation of its *undoubtedly powerful forces* " ?

The Honourable Mr. H. G. Haig : (a), (b) and (d). I would refer the Honourable Member to the reply I gave on the 5th September to parts (a), (c) and (d) of Mr. Gaya Prasad Singh's question No. 19.

(c) It is true that when this representation was made to the Bombay Government, the Round Table Conference was sitting in London. But certain events were also happening in India.

Mr. Gaya Prasad Singh : Are Government prepared to place a copy of the letter of the European Association, Bombay, on the table of the House or at least in the Library of the Assembly ? If not, why not ?

The Honourable Mr. H. G. Haig : The answer to that is very simple. The letter was a confidential one.

Mr. Gaya Prasad Singh : May I know, if any reply was sent to that letter by the Government of India ?

The Honourable Mr. H. G. Haig : No, Sir.

Mr. Gaya Prasad Singh : Was that very complimentary to the European Association, Bombay, that even the courtesy of a reply was not vouchsafed to them ?

The Honourable Mr. H. G. Haig : The letter was not addressed to the Government of India. It was addressed to the Government of Bombay who forwarded certain extracts from it for the information of the Government of India.

Mr. Gaya Prasad Singh : May I know, if any reply was sent to the Government of Bombay in connection with the letter of the European Association, Bombay ?

The Honourable Mr. H. G. Haig : I think, Sir, that should be addressed to the Government of Bombay.

Mr. Gaya Prasad Singh : My question was whether any reply was sent by the Government of India to the Government of Bombay ?

The Honourable Mr. H. G. Haig : The Government of India sent no reply to the Government of Bombay.

Sardar Sant Singh : May I know, if in that representation the European Association, Bombay, threatened to take the law in their own hands if the Government of India did not move in the matter ?

The Honourable Mr. H. G. Haig : I did not hear the Honourable Member's question.

Sardar Sant Singh : May I know, if the European Association held out a threat to the effect that if the Government of India did not move in the matter, they would themselves take the law in their own hands and picket the Congress and other places ?

The Honourable Mr. H. G. Haig : I am not aware of any such threats. As I have explained, the Government of Bombay merely sent certain extracts from the letter to the Government of India.

Mr. Gaya Prasad Singh : Will the Honourable Member have the whole letter brought to his notice to see whether or not this threat is contained therein ?

The Honourable Mr. H. G. Haig : The whole letter was not brought to my attention.

TOTAL NUMBER OF PASSENGERS OF DIFFERENT CLASSES ON THE PATNA-GAYA BRANCH OF THE EAST INDIAN RAILWAY.

740. ***Dr. Ziauddin Ahmad** (on behalf of Mr. M. Maswood Ahmad) : Will Government please give in the form of the following schedule the

total number of first, second, intermediate and third class passengers, up and down, separately, who booked from and arrived at each of the stations by different trains on the Patna-Gaya Branch of the East Indian Railway for the period from April 1931 to March 1932, month by month ?

SCHEDULE.

Patna-Gaya Branch, East Indian Railway.

Name of Station.	1 up.				2 down.				3 up.				4 down.				5 up.				6 down.				7 up.				8 down.			
	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.	1st.	2nd.	Inter.	3rd.

Mr. P. R. Rau : Government regret, they are unable to supply the information asked for. It is not readily available and will take too much time and labour to collect.

ACCEPTANCE OF COAL OF KHAS KENDA COLLIERIES.

741. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
(a) Will Government please refer to the Chief Inspector of Mines and state who is the recorded managing agent of the Khas Kenda Collieries, Limited, whose offer for 12,000 tons at Rs. 3-8-0 per ton was accepted in preference to offers for Kenda Coal at Rs. 3-2-0 per ton ?

(b) Is this Khas Kenda coal graded ?

(c) Was it ever purchased by Mr. Whitworth's predecessor ? Since when has it been purchased ?

(d) How does Khas Kenda differ from Balmer Lawrie & Co.'s Kenda ?

Mr. P. R. Rau : (a) I am informed by the Chief Inspector of Mines that this colliery has no Managing Agents.

(b) No.

(c) The information is not available.

(d) I understand it is a better quality.

ACCEPTANCE OF COAL OF MESSRS. SHAW WALLACE AND COMPANY.

†742. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
Will Government state the reasons why 18,000 tons of Messrs. Shaw Wallace & Co.'s Central Dhurmaband Coal 17 and 18 seams, offered at Rs. 4-8-0 per ton was accepted in preference to D. N. Barat's coal of the same seam from contiguous mines, offered at Rs. 4-4-0 per ton ? Is it a fact that the latter was being previously taken for Railways, and Tata's offer for Jamodoba coal (17 and 18 seam) offered at Rs. 3-6-0 was not accepted in full but was accepted in half ?

†For answer to this question, see answer to question No. 600.

NON-ACCEPTANCE OF SEAM COAL OFFERED BY MESSRS. K. B. SEAL AND SONS.

†743. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
 (a) Will Government state the reasons why K. B. Seal and Sons pure No. 17 seam coal offered at Rs. 3-8-0 per ton was not accepted while 17 and 18 seams coal offered at Rs. 4-4-0 and Rs. 4-8-0 by a certain section of colliery owners was accepted ?

(b) Is not 18 seams coal shaley and inferior in quality to pure 17 seam coal ?

(c) How will the Assistant Coal Superintendent determine the proportion in which 17 and 18 seam coals are mixed up ?

Mr. P. R. Rau : (a) I replied to this in connection with question No. 600 yesterday.

(b) Not always.

(c) By inspection as often as necessary.

NON-ACCEPTANCE OF LADHA SINGH'S SATHGRAM COAL.

†744. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
 Will Government state the reason why Ladha Singh's Sathgram coal offered at Rs. 3-4-0 per ton was not accepted while Mr. L. T. Greets Khas Sathgram coal of the contiguous property with only the Grand Trunk Road separating the two mines was accepted at Rs. 3-8-0 per ton ?

ACCEPTANCE OF COAL OF MESSRS. SHAW WALLACE AND COMPANY.

745. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
 (a) Will Government state the reasons why the offer of Messrs. Shaw Wallace and Company for 20,000 tons of Patmohona (Bharat Chuck) coal was accepted at Rs. 4-6-0 per ton in preference to Mr. B. N. Sanyal's offer for the same coal at Rs. 4 per ton ?

(b) Are Government aware that Mr. B. N. Sanyal is on the opposition bench in the Indian Mining Federation ?

Mr. P. R. Rau : (a) I replied to this in connection with question No. 600 yesterday.

(b) I am not aware what exactly is meant by the opposition.

ACCEPTANCE OF COAL OF CERTAIN COLLIERY CONCERNS.

746. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
 (a) Will Government state the reason for accepting a mixture of 10, 11 and 12 Seam coals from Kusunda-Nyadi Collieries, Limited, at Rs. 2-12-0 in preference to offers from Linton's Suratant Coal, purely 12 Seam at Rs. 2-12-0 and 13 Seam at Rs. 2-8-0 and the Collector of 24-Perganas offer for S. B. Raha and Sons Godhar Colliery (now under the Court of Wards) purely 12 Seam coal at Rs. 2-10-0 per ton ? Will Government state why the mixture of 11 and 12 Seam Coals of Messrs. Khas Jheria Colliery Company, was accepted at Rs. 2-10-0 in preference to the Collector of 24-Perganas offer for S. B. Raha and Sons Godhar Coal of No. 11 Seam at Rs. 2-8-0 and of purely 12 Seam at Rs. 2-10-0 ?

†For answer to this question, see answer to question No. 600.

(b) Is not purely 12 or 13 Seam coal superior to a mixture of 11 and 12 Seam coals ?

Mr. P. R. Rau : (a) I replied to this in connection with question No. 600 yesterday.

(b) It may be, but not always.

ACCEPTANCE OF COAL OF CERTAIN COLLIERY CONCERNS.

†747. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Will Government state the reasons why a mixture of 12 and 13 Seam coals of Sethia's at Rs. 3-12-0, that of 12, 13 and 15 Seam of Kirkend Colliery Company (or of B. K. Roy) and that of Motiram Rshanlal and Company's 12 and 13 Seams at Rs. 3-10-0 were accepted in preference to the Central Bank of India's offer for Sircar's Kirkend Coal No. 13 Seam at Rs. 3-8-0 per ton and for the last 25 years in State Railways ?

ACCEPTANCE OF KASTA SEAM COAL.

†748. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that 24,000 tons of Poriarpur Kasta Seam coal was accepted at Rs. 4 while similar coal of the same seam which had been offered at Rs. 3-4-0 was not accepted ?

ALLEGED MONOPOLY FOR THE SUPPLY OF COAL FOR THE BURMA RAILWAYS.

749. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : (a) Is it a fact that one firm has virtually secured the monopoly of the supply of coal for the Burma Railway ?

(b) Will Government state the reasons why other firms are denied any share in this supply ?

(c) Is it a fact that the coal purchased by Mr. Whitworth for the Burma Railway had 'bought coal' mixed up with it in contravention of the terms of the contract ?

(d) If so, how much 'bought coal' was shipped and how much of it was of inferior quality to what was contracted for ?

(e) Is it a fact that the freight engaged for Burma Railway coal was paid at Rs. 4-8-0, and are Government aware that it could have been secured at Rs. 3-8-0 ? Why was not tender called for C. I. F., so that the shipper could have arranged his freight at the lowest rate ?

Mr. P. R. Rau : (a) and (b). I understand the present suppliers' quotation was the lowest for the quality of coal required by the Burma Railways.

(c) and (d). No bought coal has been purchased or shipped.

(e) Tenders were invited for sea-freight for the carriage of coal for the Burma Railways and the only tender received was at Rs. 4-8-0 which was accepted.

Tenders were called for both *c i. f.* Rangoon and *f. o. b.* Kidderpore Docks.

†For answer to this question, see answer to question No. 600.

ACCEPTANCE OF KAJORA COAL.

†750. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that Darbhanga's Kajora (Villiers) offered to supply 36,000 tons of coal at Rs. 3-2-0 a ton and Madhujore (Kajora Seam) offered 36,000 tons at Rs. 3-6-0 but they received order only for 15,000 tons each, while Messrs. A. C. Banerjee & Co.'s Kajora coal (12,000 tons) was accepted at Rs. 3-10-0, Mr. K. C. Pal Chowdhury (Kajora) was favoured with an order for 15,000 tons at Rs. 3-10-0 and Mr. Roy Dutt was given orders for 18,000 tons at Rs. 3-10-0 ?

ACCEPTANCE OF COAL OF KATRAS COLLIERY.

†751. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that 12,000 tons of Burrakur Coal Co.'s Katras Colliery's coal (11, 12, 13, 14 and 15 Seam) was taken at Rs. 4-3-0, of which only 11 Seam is of Selected Grade—the others being in Grade I ? What was the proportion of each seam in these 12,000 tons ? Is it a fact that quite a number of collieries had offered Grade I coal at Rs. 2-8-0 to Rs. 2-10-0, and if so, why were 12, 13, 14 and 15 Seams coals accepted at Rs. 4-3-0 ?

ACCEPTANCE OF KENDUADI COAL.

†752. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that 15,000 tons of Messrs. East India Coal Co.'s Kenduadi coal (13 Seam, Grade II) was accepted at Rs. 3-4-0 while many offers for Grade II coal were received at Rs. 2 a ton but were not accepted ?

ACCEPTANCE OF BASUDEBPUR COAL.

†753. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that 20,000 tons of the Basudebpur Coal Co.'s Basudebpur coal (12, 13 and 14 Seam, Grade I) was accepted at Rs. 4, and are Government aware that coal of Grade I was available at Rs. 2-8-0 a ton ?

SIGNIFICANCE OF THE DIFFERENT GRADES OF COAL.

754. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : (a) Does superiority in Grade signify higher value and inferiority in Grade lower value ? And is Selected Grade superior to Grade I and Grade I superior to Grade II ?

(b) If so, will Government please state whether in many instances a higher rate has been paid for Grade I than that paid for the Selected Grade and higher rate paid for Grade II than that paid for Grade I ? If so, will Government please state the reasons ?

Mr. P. R. Rau : (a) Yes, so far as the Coal Grading Board's classification is concerned.

(b) The reason for Railways not purchasing coal on Coal Grading Board classification has been already explained in detail by the Honourable the Railway Member in reply to Mr. Das's question No. 134 on the 8th September.

†For answer to this question, see answer to question No. 600.

PURCHASE OF THE CENTRAL PROVINCES AND REWA-FIELD COAL.

755. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :

(a) Will Government state the reason why about 3,50,000 tons of coal were purchased from C. P. and Rewa-field at an average rate of Rs. 4-12-0 ? Are Government aware that similar or even better quality of coal was available in the Jharia-field at Rs. 2-8-0 per ton with a little extra cost in freight not exceeding five annas per ton if they utilised the idle wagons ?

(b) Could not a saving of several lakhs be effected if this coal was purchased from the Jharia-field ?

Mr. P. R. Rau : (a) For the Great Indian Peninsula and Bombay, Baroda and Central India Railways, the proximity of the collieries in the Central Provinces and Rewa State gives considerable advantages over coal from the Jharia coalfields.

(b) Not at all.

RESULTS OF THE PARTICIPATION OF INDIAN DELEGATES IN THE OTTAWA CONFERENCE.

756. ***Dr. Ziauddin Ahmad** (on behalf of Lala Hari Raj Swarup) :

(a) Will Government be pleased to make a detailed statement on the results of the participation of Indian delegates in the Empire Economic Conference at Ottawa ?

(b) When do Government propose to place the conclusions of the Ottawa Conference before this House ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) The attention of the Honourable Member is invited to the Press Communiqué issued by the Government of India in the Department of Commerce on the 20th August, 1932, which summarises the results achieved at the Imperial Economic Conference, Ottawa, in so far as the question of Trade Agreements between India and the other parts of the Empire is concerned. Copies of this Communiqué are in the Library. The Government of India are not yet in a position to make any statement with regard to the other items on the agenda for the Conference.

(b) I presume the Honourable Member has in mind the Trade Agreement between India and the United Kingdom. The Government of India intend to place this Agreement before the Legislature for approval early in November next.

CONTRACT GIVEN TO MR. A. L. OJHA FOR SUDI DISHERGARH COAL FOR THE ROYAL INDIAN MARINE.

757. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :

(a) Will Government be pleased to state if a contract for 18,000 tons of Sudi Dishergarh coal for the Royal Indian Marine was given to Mr. A. L. Ojha, who is neither the proprietor nor the managing agent of the colliery ?

(b) If so, will Government state what entitled Mr. Ojha to this favour ?

(c) Is it not a fact that in place of Sudi Dishergarh coal some percentage of an inferior coal from some other colliery or collieries is being supplied, though the contract enjoins—"Only coal actually raised by the contracting firm may be supplied—no 'bought' coal is allowed"?

(d) Are Government prepared to make an inquiry with reference to railway receipts as to what other and inferior coal was supplied from other collieries at the high price of Dishergarh?

(e) Will Government be pleased to state whether the Chief Engineer has any authority to go against the terms of the contract as given in the Government contract form?

Mr. P. R. Rau : (a) and (b). The contract was given to Messrs. Anritlal Ojha and Company, who are acting as the selling agents of the colliery, their tender being the lowest suitable.

(c) No.

(d) No. Government have no reason to believe that inferior coal is supplied as stated.

(e) So far as I am aware, the Chief Mining Engineer has no authority to go against any terms of contract fixed by Government.

FREIGHT PAID FOR COAL FOR THE BURMA RAILWAYS.

758. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : (a) Is it a fact that the steamer freight of 140,000 tons of coal for the Burma Railways which was fixed at Rs. 4-8-0 per ton by the Chief Mining Engineer was actually arranged for as follows?—

	Rs.	A.	P.
Shipment in February 1932 (S.S. Clune Park)	..	3	6 0
Shipment in March 1932 (S.S. Shinshi Maru)	..	3	8 0
Shipment in June 1932 (S.S. Temple Moat)	3	8 0
Shipment in August 1932 (S.S. Soiun Maru)	..	3	2 0

(b) If so, will Government state whether the payment was made at Rs. 4-8-0 per ton or at the rates the work was actually done? And if the former, who is responsible for this huge loss?

Mr. P. R. Rau : (a) No. I understand that these steamers were not loaded for the Burma Railways, but by Messrs. Bhalgora Coal Company, Limited, for public shipment to Rangoon.

(b) Does not arise. I have already said that the rate of Rs. 4-8-0 was the only tender for sea-freight received in response to a public call for tenders published in the *Statesman*, *Amrita Bazar Patrika*, *Calcutta Evening News*, *Times of India*, *Bombay Chronicle*, *Capital*, *Commerce*, and the *Calcutta Commercial Gazette*.

PURCHASE OF COAL FROM CHASUALA COAL COMPANY.

†759. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) : Is it a fact that the Chief Mining Engineer, Railway Board, purchased 36,000 tons of coal (13 and 14 seams selected grade) from the Chasuala

†For answer to this question, see answer to question No. 600.

Coal Company at Rs. 4-6-0 per ton rejecting offers for similar coal at Rs. 3-2-0 per ton ?

FAILURE OF CERTAIN COLLIERIES TO SUPPLY COAL CONTRACTED FOR.

760. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
(a) Will Government be pleased to state if instances have occurred during Mr. Whitworth's incumbency that collieries have failed to supply the coals contracted for, but that the said coals were purchased again by Mr. Whitworth subsequent to the contracted period ?

(b) If so, will Government please lay on the table the names of those defaulting collieries, the dates of the first purchase and the dates of the subsequent purchase ?

Mr. P. R. Rau : (a) Government have been unable to trace any such instance during recent years.

(b) Does not arise.

RE-PURCHASE OF COAL ONCE REFUSED BY THE RAILWAYS.

761. ***Dr. Ziauddin Ahmad** (on behalf of Mr. A. H. Ghuznavi) :
(a) Will Government be pleased to state if instances have occurred during Mr. Whitworth's incumbency that coals were purchased by Mr. Whitworth but the Railways refused to take them, and the same coals were again purchased by him for Railways ?

(b) If so, will Government lay on the table the names of those collieries whose contracted coals were not accepted by the Railways, when they were refused and the dates of the subsequent purchase of these coals and the names of the Railways for which they were subsequently purchased ?

Mr. P. R. Rau : (a) Government have been unable to trace any such cases in recent years.

(b) Does not arise.

"INSURANCE CAMPAIGN" BY THE POSTS AND TELEGRAPHS DEPARTMENT.

762. ***Mr. P. G. Reddi** : (a) Will Government be pleased to state if it is a fact that under the orders of the Director-General of Posts and Telegraphs an "insurance campaign" was started with instructions to all supervising officers of the Department to get all subordinates to insure their lives in the Postal Insurance Fund ?

(b) What was the total number of policies in force prior to the commencement of this "campaign" and what is the total now for the year ending 1931-32 ?

(c) Did the Department pay any commission or bonus to those that secured proposals for life insurance and, if not, is the question under consideration by Government ?

(d) Is it a fact that canvassing for life insurance proposals on the part of the supervising officers is not a regular part of their duty and, if so, will Government please state why such orders should have been issued by the Director-General of Posts and Telegraphs ?

(e) Are Government aware that this action of Government would interfere with the business of private insurance companies ?

(f) Have any protests been received against the action of Government and was any action taken thereon ? Are Government prepared now to issue orders stopping this practice ?

The Honourable Sir Frank Noyce : (a) The Honourable Member presumably refers to Circulars and instructions which have been issued from time to time since 1926 by successive Directors-General of Posts and Telegraphs impressing on all their subordinates the necessity for life insurance as a means of making provision against old age or premature death and asking all supervising officers to induce members of the subordinate staff of the Department to insure their lives. In all the communications it was made perfectly clear that the main point was *to insure*, no matter whether it was in the Postal Life Insurance Fund or with private companies.

(b) The information asked for is not available.

(c) No. Government are not concerned with the question of payment of commission or bonus for securing proposals for insurance with a private company. No commission or bonus is paid by Government for securing proposals for insurance in the Postal Insurance Fund, which is intended for Government and quasi-Government servants, and Government are not considering the question of making any such payments.

(d) It is an obvious duty of supervising officers to promote the welfare of their subordinates, and this being so there was nothing in the least objectionable in the instructions issued to them by the Director-General to impress on their subordinates the need for insuring their lives as a means of making provision for their families and against old age. This is not 'canvassing' in the normal sense of the word.

(e) The reply is in the negative : the staff are free to insure either in the Postal Insurance Fund or with any private Insurance Company as they like.

(f) The reply to the first part is in the negative. As regards the second part, Government do not propose to stop the practice.

I would add that the efforts of the Director-General and his staff in this matter are prompted entirely by consideration for the interests of the staff and their dependents, and are not made in the interests of the Post Office or any other insurance business. Their desirability has been suggested by the number of pitiable cases of distress which come to notice from time to time and which it is unfortunately impossible to relieve adequately from the amount provided in the Posts and Telegraphs Compassionate Fund.

OFFICE-BEARERS FOR THE POSTS AND TELEGRAPHS UNIONS.

763. ***Mr. P. G. Reddi :** (a) Will Government be pleased to state whether they authorised the Director General of Posts and Telegraphs to issue orders to the staff that in future they should elect either serving or retired officers only as office-bearers of their unions and not outsiders unconnected with the department ? If so, why ? Are Government aware

that officers are refusing to accept the positions offered to them and give no reason for such refusal ?

(b) Are Government aware that the Nellore Divisional Superintendent declined to accept the presidentship of the Nellore Union ?

(c) Do Government propose to consider the desirability of revising their orders allowing complete freedom to the unions to elect whomsoever they like ?

The Honourable Sir Frank Noyce : (a) No. The actual position is explained in the Director General's special General Circular No. 49, dated the 24th March, 1932, a copy of which is placed on the table. As regards the last part of this question, Government have no information.

(b) Government have no information.

(c) Does not arise in view of reply to part (a) above.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

Director-General's Special General Circular No. 49.

THURSDAY, 24TH MARCH, 1932.

Restoration of official recognition of the All-India (including Burma) Postal and R. M. S. Union and its branches.

With reference to my Special General Circular No. 37, dated 28th December, 1931, and No. 40, dated 11th January, 1932, the subjoined letter is circulated for the information of all the officers and staff of the Posts and Telegraphs Department. [625-Est. B.31.]

T. RYAN,

Offg. Director-General of Posts and Telegraphs.

LETTER No. 625-Est., B.31, DATED THE 24TH MARCH, 1932, FROM THE DIRECTOR-GENERAL OF POSTS AND TELEGRAPHS, TO THE GENERAL SECRETARY, ALL-INDIA (INCLUDING BURMA) POSTAL AND R. M. S. UNION, DELHI.

Referring to your letter No. A. I. 13/2, dated the 14th March, 1932, addressed to the Hon'ble Member-in-Charge of the Department of Industries and Labour, on the subject of official recognition of the All-India (including Burma) Postal and R. M. S. Union, I have the honour to inform you that in view of the contents of that letter, and relying on the assurances contained in it, the Government of India have agreed to official recognition of the Union and of its branches being restored forthwith.

2. A reference is made, in your letter under reply to the possibility that the condition, prescribed in my earlier correspondence on the subject, regarding the elimination of non-official office bearers from their position in the Union, might be applied with some elasticity and that Government might not insist upon its rigid enforcement. From what has been stated above it will be seen that you have rightly understood the attitude of Government in this matter. They do not desire to insist upon a complete and unqualified observance of the requirement that no non-officials shall be employed as office bearers of the Union so long as they can feel satisfied with the general conduct of the Union, and in particular so long as they are satisfied as to the character of the influence exerted by non-officials. In the interests of the staff and of the Union itself I desire, however, formally to draw your attention to this matter and to remind you that the harmonious relations now being re-established will inevitably be seriously impaired if unfortunately occasion should again arise for exception to be taken to the conduct of the affairs of the Union under the influence of non-official persons or if those indulge in any form of misleading or inflammatory addresses or other objectionable activities of the type to which exception has already been taken in my previous letters. Should such an unfortunate development recur, Government would be obliged to reconsider their decision.

3. A copy of this letter is being reproduced in a General Circular for the information of the officers and staff of the Posts and Telegraphs Department.

REVERSION TO THE PRACTICE OF NOMINATION IN CERTAIN CADRES OF THE
POSTS AND TELEGRAPHS DEPARTMENT.

764. ***Mr. P. G. Reddi :** Is it a fact that Sir Hubert Sams, the late Director-General of Posts and Telegraphs, after mature consideration, put an end to the practice of nomination to the examination for appointment to the amalgamated cadre of Inspectors and Head Clerks on the ground that the practice breeds and savours of corruption and introduced the open door for everyone willing to appear for the test ? Why was this principle cancelled by the present Director-General ? Did the Director-General obtain the approval of the Government of India for cancelling his predecessor's orders ? Is it a fact that the Postal Unions all over the country have uniformly protested against this change ? Are Government prepared to consider the question of reverting to Sir Hubert Sams' arrangement ?

Mr. T. Ryan : The first part of the question overstates the fact, but it is the case that the possibility of favouritism was a consideration which weighed in favour of the orders referred to by the Honourable Member.

As regards the second part, the system was abandoned as it was found to be excessively expensive and administratively impracticable : for instance if a single examination had been held under the revised orders it would have entailed an expenditure of about Rs. 10,000 ; and the relief from their duties and examination of about 2,000 candidates at great inconvenience, in order to determine the promotion of about 30 clerks.

The reply to the third part is in the affirmative.

As regards the fourth part, Government have received no such general protests as suggested by the Honourable Member.

The reply to the last part is in the negative.

SPECIAL ALLOWANCE TO POSTAL SIGNALLERS RECOMMENDED BY THE
RETRENCHMENT SUB-COMMITTEE.

765. ***Mr. P. G. Reddi :** Is it a fact that the Retrenchment Sub-Committee of the Posts and Telegraphs Department recommended the grant of a special allowance of Rs. 5 to all signallers of the Post Offices doing duty as such ? When do Government propose to give effect to this recommendation ?

Mr. T. Ryan : Yes, but the special pay was recommended as an addition to the revised and reduced time-scales of pay suggested by the Committee. Government have not yet come to a decision as to how far the recommendations relating to revised scales of pay can be adopted.

ABSORPTION OF SURPLUS TELEGRAPHISTS IN THE POST OFFICES.

766. ***Mr. P. G. Reddi :** (a) Will Government be pleased to state if they contemplate to absorb all the surplus telegraphists in the Post Offices ?

(b) Have Government received strong protests from the Postal Unions all over India against the proposal ?

(c) If so, what is the action proposed to be taken by Government on the protests, if any, sent to them by the Postal Unions ?

Mr. T. Ryan : (a) No.

(b) A protest was received from the All-India Postal and Railway Mail Service Union, against the employment of telegraphists in Post Offices.

(c) I have explained to the Union that the employment, as advocated by the Retrenchment Sub-Committee of surplus telegraphists in vacancies in the postal clerical cadre is only a temporary measure, and will be discontinued as soon as the existing surplus of telegraphists has disappeared.

STATEMENT OF BUSINESS.

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) :

12 NOON. Sir, with your permission, I desire to make a statement as to the probable course of Government business during the remainder of the Session. The discussion on the motion for reference to Select Committee of the Criminal Law Amendment Bill will be resumed on Monday, the 26th instant, and will be continued, subject to your direction, from day to day until the question is put. No other Government business will be taken up this Session.

Mr. N. M. Joshi (Nominated Non-Official) : What about the Child Labour Bill ?

The Honourable Sir C. P. Ramaswami Aiyar : No other Government business will be taken up.

Mr. N. M. Joshi : May I ask, if it is the policy of the Government that they attach greater importance to the amendment of the criminal law than to the welfare of the children ?

The Honourable Sir C. P. Ramaswami Aiyar : It is not so much a question of intrinsic importance, but of urgency.

THE INDIAN INCOME-TAX (SECOND AMENDMENT) BILL.

The Honourable Sir Alan Parsons (Finance Member) : Sir, I move for leave to introduce a Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Second Amendment).

(Sir Hari Singh Gour rose to speak.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Does the Honourable Member desire to oppose introduction ?

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Yes, Sir. I regret I have to oppose this Bill, and I shall very briefly state my reasons for doing so. It was open to the Government to publish this Bill on their own responsibility and also to circulate it by executive order for the purpose of eliciting opinion thereon. Instead of taking that course, they want the leave of this House in the Legislative Department for the introduction of this Bill, and I understand that, thereafter, they will use their executive power for circulating it.

Mr. Abdul Matin Chaudhury (Assam : Muhammadan) : On a point of order, Sir : is it not against the established convention of the House to oppose any Bill in the introductory stage ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair can only follow the Rules and Standing Orders which apply to such cases. For the information of the Honourable Member, the Chair wishes to read the Standing Order which applies to this case :

“ If a motion for leave to introduce a Bill is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may without further debate put the question.”

The Honourable Member knows that when Sir Hari Singh Gour stood up to address the House, the Chair asked him whether he proposed to oppose the introduction of the Bill, and the Honourable Member replied in the affirmative. The Chair has to allow him to make a brief statement.

Sir Hari Singh Gour : My Honourable friend could have found out the answer to his query himself if he had consulted the Standing Orders. As I say, the Honourable the Finance Member, instead of adopting this course, wants to commit this House in the Legislative Department to give him leave and, thereafter, he wishes....

Sir Lancelot Graham (Secretary, Legislative Department) : May I ask what the Honourable Member means by these references to the Legislative Department ? They are quite unintelligible.

Sir Hari Singh Gour : I of course mean the Legislative Assembly : and, thereafter, he wishes to circulate it by executive action. The adoption of such a course would lead to the collection of opinions from the public more or less *ex parte*, because, if his further motion for the purpose of circulating the Bill were before the House, the Members on this side would be in a position to state their reasons for and against its circulation ; and, as that opportunity has been denied to the Members, I venture very briefly to ask the Honourable Members of this House to concur with me in the following observations which I wish to make in connection with this Bill. Members on this side of the House have complained time and again against piecemeal legislation on income-tax. Honourable Members will find from the Income-tax Bill that no less than 48 amending Bills have been passed and the *corpus juris* of income-tax law has been thus piled up not by one single consolidating Act, but by a series of short Acts dealing with short subjects. That, I submit, does not give this House a fair opportunity of viewing the whole subject in its proper perspective which it is the right of this House to do ; and, further, it does not give the public an opportunity to comment upon the general policy of the income-tax law without passing in review the whole Act. I object to this Bill on two main grounds. This Bill is intended to place a halter round the neck of the assessee when alive and even after he is dead. I do not wish to go into particulars, because I have not got time, but Honourable Members, who read this Bill, will find my remarks are well justified. Secondly, it is intended to pillory the assessee in public. We have already seen that under the existing law the executive is the final judge of the assessment they make ; and,

under the present law, under section 54 of the Income-tax Act, the assessee has at any rate this satisfaction that whatever may be the assessment or the penalty or compounding fine, his name is kept out of the public view ; but now they wish to take the power of publishing his penalty and his compounding fine and thus bring him into public ridicule and contempt. Thirdly, the provisions of clause 14....

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muham-madan Rural) : On a point of order, Sir : can the Honourable gentleman go into details in opposing introduction ? As a convention, we have always observed the practice of not opposing Bills in their introductory stage, and he did not even oppose the introduction of the Criminal Law Ordinance Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The point of order has already been raised and the Chair has explained that the Standing Order permits the Honourable Member to offer a brief explanation in opposing introduction.

Mr. S. C. Mitra : Is it brief ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair is watching the clock and will pull him up as soon as the Chair feels that he is exceeding the limit which the word ' brief ' implies.

Sir Hari Singh Gour : Half of my time has been taken up by ignorant interruptions. I was going to say that the last clause, which I would like to draw the attention of the House to, is clause 14 under which the assessment is now to be recovered as if it were under a decree, and which might entail the imprisonment of the assessee and the seizure and sale of his property. On all these grounds, I submit, if it were open to us at this stage and if the Honourable Member had followed up his motion with a motion for circulation, we would have resisted that motion. As it is, we formally protest against the Honourable Member's motion for leave to introduce the Bill.

The Honourable Sir Alan Parsons : Sir, I will be more brief than my Honourable friend, Dr. Gour. I will deal perfectly simply with his two points. It is my intention, if the House gives me leave to introduce this Bill, to circulate it by executive order ; and, as far as I am aware, if that is done, it will in no way prevent any Member of this House, when I make a further motion with regard to this Bill, from moving as an amendment that it should be circulated again. I do not propose to go into any of the details of the Bill ; all I should like to say is that its provisions are mainly devoted to the relief of assesseees and in one case provide, what I understand my Honourable friend always wishes to have provided, for a reference to the High Court.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

" That leave be granted to introduce a Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Second Amendment). "

The motion was adopted.

The Honourable Sir Alan Parsons : Sir, I introduce the Bill.

THE MURSHIDABAD ESTATE ADMINISTRATION BILL.

Mr. H. A. F. Metcalfe (Foreign Secretary) : Sir, I move for leave to introduce a Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

“ That leave be granted to introduce a Bill to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.”

The motion was adopted.

Mr. H. A. F. Metcalfe : Sir, I introduce the Bill.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Further consideration of the motion moved by the Honourable Sir Frank Noyce on the 16th September, 1932, to refer the Workmen's Compensation (Amendment) Bill to a Select Committee.

Mr. Abdul Matin Chaudhury (Assam : Muhammadan) : Sir, this Bill, as Honourable Members are aware, is based on the recommendation of the Royal Commission on Labour. My main grievance, with all respect to you, Sir, and your distinguished colleagues, is that the scope of the Bill, having been based on the recommendation of the Royal Commission, is unduly restricted. In their recommendation, the Royal Commission have not followed the spirit of modern legislation on workmen's compensation ; but have advocated methods which were considered suitable half a century ago. Towards the end of the 19th century, the trend of legislation on workmen's compensation was to make a distinction between hazardous and non-hazardous industries and to include only the former in the scope of the Bill. The German Act of 1885 and the French Act of 1898 are based on this method. The Indian Act of 1923 has followed a similar model. The present Bill also is drafted on the same lines except that the organised character of the industry is also taken as a criterion. Now, Sir, the trend of modern legislation on workmen's compensation is not to base their legislative measures on a distinction between hazardous and non-hazardous industries, but to base it on the principle of occupational risk. Let me explain what I mean. When an employer starts a mill or factory, he sets in motion certain activities ; he employs workers ; he sets up plant and machinery ; he creates an organization, the working of which may cause injury to the workers, and the compensation for that injury falls on the employer. This liability to pay compensation becomes one of the normal charges of the undertaking just like the repairing of plant and machinery,—it is something like repairing a damage to human machine,—quite irrespective of the fact whether the industry is hazardous or non-hazardous, big or small, or organised or disorganised. The English Act of 1923 is based on all this all-embracing principle, and that includes all the hazardous or non-hazardous, big or small, or organised or disorganised industries. Some of the States within the British Commonwealth of Nations like South Africa, Southern Australia, New Zealand

and Tasamania, have all based their Workmen's Compensation Act on the British model.

Then, again, Sir, in the post-war legislation in Europe, in countries like Denmark, Sweden, Bulgaria and Russia have also based their legislation on the British model, and with all these modern examples before them, it is very much to be regretted that the Labour Commission should have adopted this antiquated method for defining the scope of Indian legislation. My friend, Mr. James, seems to have objected to applying European precedent to Indian conditions. I was surprised that Mr. James, who had won well-deserved appreciation in Calcutta for his social service activities, should come forward before this House with reactionary suggestion. If Mr. James has not lost all touch with world movements, in the backwood of Madras plantation, I think, he must be aware that every year in Geneva, delegates from all parts of the world, both from the East and the West, congregate in order to adopt conventions to co-ordinate labour legislation all the world over. Post-war India is now in the main current of all contemporary social movements, and it is now too late for Mr. James to come forward and press his antediluvian views for the acceptance of the House.

Sir, my grievance, as I have already said, is about the restricted character and scope of this Bill. In the Select Committee, we shall try to widen the categories of workers who should be benefited under this Act to the limited extent that it is possible for us to do and so I need not go very much into this question. There is, however, one point to which I want to make a reference, a point where it differs from the British Act, and goes against the majority recommendation of the Labour Commission. Under section 3 of the present Act, the employer is exempted from liability to pay compensation, if the accident is due either to drunkenness of the worker and his wilful disregard of the safety rules or the removal of the safety appliances. This Bill concedes the right of compensation in case of fatal accidents even if the accident is due to either of these causes. So far it is an improvement on the present Act, and I welcome this provision, but I should have liked the Government to extend this protection to permanent disablement also. The majority of the Royal Commission on Labour recommended that if the injury involves loss of fifty per cent. or more of the earning capacity, then protection should be extended to the workers, and I should like to have this provision incorporated in this Bill. I shall tell the House my reasons. In the case of death or permanent disability, the economic effect on the worker's family is practically the same. I would rather say it is worse in the case of permanent disablement than in the case of death, because in the case of permanent disablement not only the worker's family loses the services of one of its earning members, but they have also another member, the permanently disabled member, thrown on the family burden, which is not the case with the bereaved family. If a man loses his limb, hand or leg, he is to be fed and clothed like other members of the family. He may even requisition the services of another member of the family to carry him about; and, therefore, the justification for extending this protection to the case of the permanently disabled worker is not less strong as has been suggested in the Statement of Objects and Reasons; on the other hand it is much stronger on the ground of economic hardship on the worker's family.

[Mr. Abdul Matin Chaudhury.]

In some of the objections that I have seen in the opinions I have glanced through it is stated that if the worker wilfully disobeys the safety rules he must suffer the consequences. In reply to this callous argument I would say this much that it is absurd to suggest that a worker will wilfully commit self-mutilation or commit suicide merely to get the benefit under this Act. It cannot be suggested that in all the workshops or factories every safety rule is meticulously followed by all those illiterate workers employed there, and when this violation of the rule is almost a daily occurrence, it is unjust for the employer to be permitted to put forward the excuse that the injury was caused to the worker owing to his wilful neglect of safety rules, in order to evade payment of compensation. The British Act gives relief both to permanently disabled men as also in the case of a fatal accident and I think it is wise to follow the British precedent in this case also

Mr. B. Das (Orissa Division : Non-Muhammadian) : I support the reference of this Bill to the Select Committee. In the draft of this Bill, I see the triumph of my Honourable friend, Mr. N. M. Joshi, who has managed to convert the Treasury Benches, including my old friend, Mr. Clow, to be socialists, in the matter of this particular Bill. I have known my Honourable friend, Mr. Clow, for many years. I accompanied him to the International Labour Conference at Geneva. There I used to find him to be the representative of an autocratic and bureaucratic Government. Since he came into the company of Speaker Whitley in the Labour Commission, he has become an admirable socialist and I congratulate Mr. Joshi on his conquest of Mr. Clow and, I hope, also of the Honourable Member for Industries and Labour. Sir, I support this Bill, because I want to give the workmen better conditions of living and also compensation if they are disabled but, in these days of economic depression, as my Honourable friend, Mr. James, pointed out, when the employers are voicing the view that the compensation fixed under the present Bill is over-estimated, it is possible that the rates may have to be reduced taking into account the fact that Indian industries do not pay much to the investor.

Mr. H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Hear, hear.

Mr. B. Das : My friend, Mr. Abdul Matin Chaudhury, has already referred to Mr. James. I will only touch one point in his speech. He observed that landowners have not been included in this Bill. I was surprised to hear that from a planter, because I understand Mr. James is a planter.

Mr. N. M. Joshi (Nominated Non-Official) : Why ?

Mr. B. Das : I will tell you why. We, who manage our estates and our agricultural properties, treat farm labourers engaged in our estates as members of our family. We give them perquisites, we give them presents and we treat them as members of our family. Does Mr. James, when he observes Christmas, give a banquet to his plantation coolies and, when he observes the birthday of himself or his wife or children, does he treat the coolies with presents and feasts as if they were part of his own family ? In India, the feudal system still exists by which the farm hands are bound to the landowners by family ties and there is no analogy

between this and the position of Mr. James. I hope that whoever is selected to be the representative of the European Group in the Select Committee will not bring forward again this aspect of the question. While I approve the principle of the Bill, I think the compensation fixed is at a very high rate and that should be revised.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. K. P. Thampan (West Coast and Nilgiris : Non-Muhammadan Rural) : Sir, I had no idea of participating in the debate at this stage, but certain words that fell from my Honourable friend, Mr. James, and my Honourable friend, Mr. Das, tempt me to speak a few words. Mr. James protested on behalf of the planters that the plantation labourers ought not to be brought within the scope of this Bill. He even went to the extent of suggesting, if I may say so, in a vindictive spirit that agricultural labourers should also be brought within the scope of this Bill. Mr. Das, on the other hand, protested against that and said that under any circumstances, that ought not to be done. Sir, on behalf of the landholders,—though I do not represent the landholders here—I say this with a full sense of my responsibility that the agricultural labourer should also be brought within the scope of this Bill. Sir, in South India there are thousands of oil engines working in irrigating the fields. There are also many rice mills where thousands of labourers lead hazardous lives, and I do not see why they should not be brought within the scope of this Bill. I propose to press this in the Select Committee. I present this asseveration with my compliments to my Honourable friend, Mr. James. Sir, I wish to state here, if I may, that though the Royal Commission has recommended that labourers working in the reserved forests might be brought within the scope of this Bill, the Government have not thought it worth while to include them. I do not know much about the conditions under which labourers work in the reserved forests. In Malabar there are large tracts of private forests, several hundreds of square miles, where the timber merchants employ large numbers of labourers : and it often happens that some of them lose their lives through accidents, by a tree falling on their head or by falling from a precipice or by being gored by a wild elephant. Now these poor people do not get any kind of compensation, and I suggest that not only those working in such private forests but also people working in the Government reserved forests should be brought within the scope of this Bill. Now another proposal I have to make—though it might seem a queer one—is with regard to that class of people who are known as elephant keepers. In South India thousands of elephants are kept by private owners. The rich vie with one another in owning the biggest animals. There are some timber merchants I know who keep between fifty and sixty of them. These animals sometimes become wild and turn against their keepers. A year hardly passes without a dozen of such

[Mr. K. P. Thampan.]

men being killed this way. I insist that the keepers of these elephants should also be brought within the scope of this Bill. It may be said as a logical corollary that men employed in circus should also be brought within the scope of this Bill, but I leave it to the House to decide that.

Then, Sir, I come to another class of people. You will agree with me that people working and dealing in explosives should also be included in Schedule—those making rockets, crackers, etc.,—as very often accidents do happen and these people either lose their limbs or sometimes their lives. I am very anxious these people should be given the benefit of this Bill. Another point is that for purposes of this Act only factories working with a minimum of fifty people are brought within the scope of the Bill. There are a large number of small factories—subsidiary match factories for instance—where there are only between 10 and 20 people employed, but accidents do happen there too, and I should humbly suggest therefore that all factories and workshops which keep an engine, although they may not be as many as 50 people working, must be brought within the scope of the Bill. I know there is section 2, sub-section (3), which enables the Government to widen the scope of the Bill, but I humbly submit that it is better that these varying class of people are even now granted statutory protection instead of leaving it to Government to include them after some time by widening the scope of the Bill.

Sir, one point more, and I have done. The Bill contemplates to amend the definition of the word “dependent” with a view, I take it, to regulate the distribution of compensation. The Royal Commission on Labour as well as the Government erred in thinking that a uniform social law prevails in this country. Sir, in Malabar very recently a hard case came to my notice. A man living in a neighbouring village was working in the Kolar Gold Mines died through some accident. It so happened that the company gave the entire compensation to the wife of the deceased man ignoring the claims of the mother and sister. The Commissioner or the officer who was working under this Act could not go beyond its provisions. According to the law in Malabar marriage ties are not very strict and widows are at liberty to re-marry. Surely this Act.....

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, on a point of order. The Honourable Member is referring to an incident which happened in the Kolar gold fields which are outside British India.

Mr. K. P. Thampan : This is an instance which might nevertheless be instructive and warrant further amendment of the definition. If the Honourable Member will bear with me, he will understand what I mean. The mother and sister of the deceased man came to me soliciting advice. Strictly speaking under the Malabar law, it is the sister and sister's son who inherit one's property and it is they who are directly dependent upon him and unfortunately, in this instance the sister and her children, who ought to have been given some thing at least, had to go without anything. What I mean and suggest is that full discretion ought to be given to the Commissioner to distribute the compensation according to the laws and customs under which the deceased labourer lived. Different laws are prevalent in different parts of the country and the fact that we

have provided only for a particular class of dependents should not handicap the Commissioner in the discharge of his duties in this respect. Sir, I have great pleasure to support the motion.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, along with all the previous speakers who have spoken on this Bill, I congratulate the Government for this piece of good legislation which was, I think, rather overdue. I have received some communications from the Labour Unions in Bengal and I would like to place those points before this House. But, before I do so, I express agreement with my Honourable friend, Mr. Abdul Matin Chaudhury, that the scope of this Bill has been unnecessarily restricted, but I am glad to find that this aspect of the question was not lost sight of by the framers of this Bill. In their notes on clause 20, they say :

“The present Act aims at the inclusion of persons employed in branches of industry which are both organised and hazardous. The Commission have recommended that the Act should be extended to cover as completely as possible the workers in organised industry, whether their occupations are hazardous or not, and that there should be a gradual extension to workers in less organised industries, beginning with those who are subject to most risk.”

As a matter of fact, in this Bill itself there are items in clause 20 (*xv*) to (*xviii*) where new classes of workmen were introduced and items (*i*) to (*viii*) involve enlargements of the existing categories. On one point I very much differ from the Honourable Mr. B. Das who said that the scale of compensation that has been given was rather excessive. Personally I think that even the proposed scale does not do proper justice to the labourers. However, I agree with Government that in these matters we should proceed gradually and though the present scale may not compare favourably with the rates prevailing in other civilised countries, yet it is an advance in the right direction.

Then, as regards the clauses of the Bill, I find that some labour organisations would like to place before this House that in section 2 (*1*) (*d*), for the word “dependent” there should be inserted some such general clause as this :

“Those persons who are found to be dependent on the workers and, in the opinion of the Commissioner, are dependent for the purpose of this Act.”

On this particular matter, I find the Royal Commission also considered these views. On page 304, they say :

“Various modifications in the present system are possible and we have received a number of suggestions, but we agree with the view of the Commissioner for Workmen's Compensation, Bengal, that the choice lies between the maintenance of the present system and a complete change to a system such as that of the British Act, which makes compensation vary with the degree of dependence and the number of dependents and requires proof of dependence. Each system has obvious advantages.”

I do not find, Sir, why these two clauses should be mutually exclusive. If there are some specific dependents, they should be mentioned, but what objection is there to have a general clause like this :

“Provided that the persons who are found to be dependent by the Commissioners for the purpose of the Act”,

included in the clause. And particularly it is urged that ‘paternal grandparents’ should be considered as dependents without any reference to the fact of parents of the workman being alive or not. I think the last portion of the present clause may be omitted, making the paternal parents in all cases dependent. That is one of the suggestions.

[Mr. S. C. Mitra.]

Then, as regards section 2 (1) (e). In cases of application for compensation against Government, difficulties are felt as regards the party against whom the application is to be made—whether in such cases the “Head of the Department” or the Secretary of State is to be considered as the “employer”? In such cases it is desirable that the Head of the Department who had the authority to appoint the worker should be considered as “employer” for the purpose of this Act. May I therefore suggest that the following words should be added after the end of the paragraph:

“And also include the Head of the Department of the Government who has the authority to appoint the workers in question.”

It is really a practical question because in some of the cases the question has been raised whether the Secretary of State for India should be the party and not the Head of the Department who actually appoints the particular employee. So, I think this question also requires to be thoroughly inquired into whether some such clause is necessary.

Then there are difficulties that are sometimes felt in connection with computing the amount of loss of earning capacity caused by occupational diseases according to the existing system. I suggest that the following words should be added after the words “accident resulting in such disablement”:

“Provided that the total disablement shall be deemed to result from the contracting of occupational diseases mentioned in section 3, sub-section (2) and Schedule III of the Act; and that such total disablement shall be temporary or permanent according to the circumstances of each case; provided further that if in any case the said disease is not cured within the period of three years the disablement in the said case shall be deemed to be permanent.”

And with regard to clause 4 of the Bill, occupational diseases should be separately treated from accidents for the purpose of sections 4 and 10 (1), that is to say, for ascertaining the nature of disablement resulting from such diseases and for fixing up the exact time of occurrence of such accidents. It is very difficult to fix the exact date of occurrence of the accident in the nature of an occupational disease such as lead and phosphorus poisoning, etc. These diseases are contracted gradually. The proviso to section 10 does not fully meet the case. The worker may be continuously absent from work for several days in consequence of the disablement caused by diseases such as lead poisoning without being aware that he had actually contracted an occupational disease. There are diseases such as lead poisoning which are very difficult to diagnose at their initial stage even by expert medical men. In a number of cases it has been found that a press employee contracted lead poisoning years ago and on several occasions had to absent himself from work continuously for a number of days before the disease was actually detected or diagnosed. In all such cases difficulties may be created under the present state of law with regard to the sufficiency and legality of the notice and claim under section 10 (1).

Then, again, in the case of occupational diseases, calculation of amount of loss of earning capacity according to Schedule I of the Act is difficult if not impossible. Government, not to speak of private employers, have refused to pay compensation on the ground that the amount of such loss could not be estimated even in a case where the Medical Board found the worker unfit owing to lead poisoning and recommended an early retirement. Even to-day, I put a question in this House and got the reply that

the question is being considered now, but the reply of the Press Manager was :

“ That as the Medical Board before which he was examined cannot give an estimate of loss of earning capacity permanently caused to him by lead poisoning, the question of grant to him of compensation under the Workmen's Compensation Act has been dropped.”

I am glad, Sir, the question is being reconsidered now.

So, Sir, in these cases of occupational diseases, there should be specific arrangements, otherwise, even in cases where the medical experts give definite opinion, their cases may not be considered under the Workmen's Compensation Act at all. It is therefore considered that the present rule applying the same principle for the purpose of estimating the loss of earning capacity both in cases of ordinary accident and accident of the nature of occupational diseases should be changed, and a simpler rule should be adopted.

Now, Sir, coming to clause 10, sub-clause (1) proviso, the words, “ unless the claim for compensation.....has been instituted within six months ’, have created a great deal of confusion in the administration of the Act. Some of the Commissioners think that the word ‘instituted’ means ‘instituted before the Commissioner’ as contemplated in sections 19 and 22. A reference to these sections 19 and 22 shows that these sections contemplate that a claim for compensation should be made to the employer by the worker prior to his making an application under the said sections. In the English Act, the corresponding words are, ‘unless the claim for compensation....has been made within six months’. The difference is that the word ‘made’ has been used for the word ‘instituted’. There are English cases reported in the Indian Appeals Cases, 1900, page 366, *M. Powell versus Main Colliery Co.*, where it has been held that the word ‘made’ means ‘the claim made before the employer and not the initiation of a proceeding before the Commissioner’. So under the English Act, the worker is saved from his claim being barred by limitation if he makes his claim to the employer in question within six months. There is no reason why an Indian worker should be placed in a more disadvantageous position than an English worker in this respect. It is therefore suggested that the word ‘instituted’ should be replaced by the word ‘made’, before the words, ‘before the employer’.

Now, Sir, coming to section 22, it is desirable to include in this section some such provisions by which the employees may be saved from their rightful claim being frustrated on account of some formal defects in their application, and for this, may I suggest the following proviso to be inserted after the end of sub-section (2) of the section :

“ Provided that no application shall be dismissed on account of any formal defects and the Commissioner shall have powers to make such orders as may be necessary for the ends of justice.”

I suggest some such general proviso should be put in so that these poor illiterate workers may be saved from formal or technical objections that may be raised before the Commissioners or before a Court of law.

With these words, which I hope Government will see their way to consider carefully in the Select Committee, I give my support to the motion for reference of this Bill to the Select Committee.

Mr. H. P. Mody : Sir, I did not think it was necessary for me to inflict myself upon the House at this stage of the proceedings, but certain

[Mr. H. P. Mody.]

view points have been urged by my Honourable friends, Mr. Abdul Matin Chaudhury and Mr. Mitra, and I think it is necessary for me to make a few general observations. I would like to make it clear at the outset that I have no objection whatsoever to urge against the principle of the Bill. The Workmen's Compensation Act was passed a few years ago, and the time has surely arrived for reviewing the position and ascertaining exactly how the Act has worked and in what directions it requires to be improved or liberalised. I, therefore, say that so far as the Bill itself is concerned, I welcome it. But what I object to is the fact that the recommendations made by the Whitley Commission seem to have been bodily taken and incorporated in the Bill. Sir, we all know the very critical faculty which the Government bring to bear upon the reports of the Tariff Board. I wish that the same critical faculty would be brought into play when Government are dealing with the recommendations of Labour Conventions, Conferences and Commissions. I do not want the attitude of the Association which I represent misunderstood. Those of my friends who have taken the trouble to read the literature on this somewhat dry subject must have seen the very fair and liberal attitude adopted by my Association towards most of the proposals on which their opinions were asked for. As a matter of fact, the views expressed by my Association, I can confidently claim, are in advance in a great many particulars of the opinions which have been expressed by employers of labour and by employers' Associations in other parts of the country. But, Sir, there is one point on which I feel it is necessary that I should record my protest, though I feel that the atmosphere is not exactly congenial, and that I am going to carry on a lone fight not only on the floor of the House but in the Select Committee. I do not mind that. All that I wish is that when Government in the Select Committee are confronted with views which are not exactly in agreement with those which have been embodied in the Bill, they will keep an open mind on the subject, and will be prepared to listen to reason.

The specific proposal against which I am objecting, Mr. President, is with regard to the scale of compensation. My Honourable friend Mr. Mitra was just now heard to say that he did not exactly object to the scale, but that he desired that it should be made more generous. I hope my Honourable friends on the Government Benches will not be taken in by what I regard as a pose on the part of my Honourable friend. After all it is the business of those who plead for labour always to express themselves very disgruntled and very dissatisfied with whatever labour legislation is placed before the House. This is a very useful device, and even though, in their heart of hearts, they may be pleased with all that is happening, it is prudent for the spokesmen of labour to express their dissatisfaction. I would do the same when it was a question of fighting for the interests I represent.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Japanese dumping !

Mr. H. P. Mody : My Honourable friends will not get away from "Japanese dumping" quite so easily as they imagine, so long as some representatives of industrial interests are in this House !

What I was going to say with regard to the scale proposed in this Bill was that it had been bodily taken from the Whitley Commission recommendations. I do not pretend to have read all those volumes in which the

evidence of the Whitley Commission has been recorded. My Honourable friend Mr. Clow would probably know them by heart. But whatever little study I have applied to these volumes has at least told me this, that barring a very few labour organisations, the overwhelming majority of all those who have given evidence have definitely said that the present scales of compensation are adequate, and should not be increased except in certain minor particulars. My grievance, therefore, against the recommendations of the Commission is that it has gone out of its way to make recommendations which are not warranted by the evidence which was laid before it.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Hear, hear.

Mr. H. P. Mody : My Honourable friend, Mr. K. Ahmed, with his usual relevance says, "hear, hear". Sometimes it may be regarded as an approval, and sometimes as a disapproval, according as people take my Honourable friend seriously or otherwise. I hope, at any rate, my Honourable friend, when he sat on the Commission, was listening to the evidence, and that he applied his mind to the recommendations before he appended his signature to them. (Hear, hear.) I was going on to say that the

3 P.M. main objection which has got to be urged against the scales of compensation is that industries have been passing through a period of acute depression. I do not go the length of saying that because a wave of depression is passing over the land, therefore we should refrain from doing justice, from doing what is right and fair. But, Sir, the point I am making is that, in this period during which industries have been passing through abnormal conditions and I am not merely talking of the particular industry which I represent,—during this period the cost of living has come down very materially. What then is the result ? The result is that these scales of compensation provide for a 30 per cent. increase at a time when the cost of living has gone down by 30 per cent. I cannot say, with all the sympathy that I have for labour, that this is a just and fair way of treating the question. I hope my Honourable friend, Mr. Joshi, when he gets a chance will not get up and indulge in his usual rant about the hard-hearted capitalist and employer of labour. I say confidently that to-day at any rate, no matter what was the case in the past, the employer who treated his labour otherwise than fairly and even generously, would be regarded as not only wanting in humanity, but also wanting in sense. I repeat that to-day, the attitude of the employer of labour towards those whom he employs has undergone a very welcome change. I will admit that it has been a belated change, but none the less it is there, and must be welcomed.

Then, Sir, there was an important point made by my Honourable friend, Mr. Abdul Matin Chaudhury, to which I should like to refer, lest my friends on the Treasury Benches in a moment of weakness accord their approval to it. My Honourable friend inquires, why certain defences which in the case of fatal accidents are open to the employers to-day and which are sought to be done away with in the Bill, should not be done away with also in the case of disablement. Here, again, I would like to say that while many employers think it inequitable that where fatal accidents are caused by the drunkenness or utter disregard of safety devices on the part of workmen, employers should be debarred from pleading these as defences, my Association has approved of the amendment, even though it goes beyond what fairness requires. I find, however, my Honourable friend, Mr. Abdul

[Mr. H. P. Mody.]

Matin Chaudhury, actually pleading that it should be open to a workman who has disregarded safety devices or who has been drinking and has permanently disabled himself in consequence, to get the benefit of the particular provision which obtains in the case of fatal accidents. I ask, Sir, what would happen if a workman was passing along a road and was run over by a motor lorry or a passing car, and it was proved that it was his contributory negligence which brought about his disablement? In that case he would get nothing, because the ordinary law of the land, which is sought to be done away with in this Bill, would prevail, and contributory negligence would be a bar against the recovery of any damages. I say therefore that my Honourable friend ought to regard it as a great concession that the employer should be debarred from even pleading that the workman was drunk or that through his own utter neglect he met his death; and I hope that neither he nor any of his friends on the Select Committee will seek to extend the scope of the concession.

As I am on the Select Committee, though in a hopeless minority, I shall not deal with any other points at this stage. I accord the Bill a whole-hearted welcome, and I hope that in the Select Committee my Honourable friends on the Treasury Benches will bring to bear upon the various questions which are embodied in this measure a fair and open mind.

Mr. N. M. Joshi : Sir, as I have already spoken on the main principles of this Bill, I shall confine my speech on this occasion only to a few points. But before I deal with the speeches of the various Honourable Members I wish to enter my protest against the way in which the Government of India arrange their agenda. Sir, this Workmen's Compensation Bill and the Tea Districts Labour Recruitment Bill were introduced in the last Session; then the Bills were circulated and they are being discussed in this Session. As a matter of ordinary routine these Bills should have come before the other Bills which were introduced in this Session. But unfortunately the Government of India are more anxious to prevent a few adjournment motions being made before magistrates and some inconvenience being caused to them than to safeguard the interests of the masses and the working classes. It is nothing to them that a large number of workers should get compensation against accidents or a large number of workers in the tea districts should get repatriation, if they can prevent a little inconvenience being caused to their magistrates.

Now, Sir, the first criticism of this Bill came from my Honourable friend, Mr. James. While he was speaking I felt that my Honourable friend was speaking as an advocate who uses his eloquence knowing full well that he was using it for a case which was already lost. He made a few points, and although I cannot refer to all the points which he put forth in his speech I shall refer only to one or two. He said that if you pass this legislation for workmen's compensation and apply it to the plantations, the planters would give up whatever they are doing by their voluntary efforts. Sir, I feel that my Honourable friend who represents the planters has rather a bad opinion of his masters. He tells us that if you pass the Bill all the sources of mercy and charity will dry up. Sir, I have a little better opinion of the planters. I know that even if we pass this legislation the planters will not refuse to do what they propose to do in addition to what we are proposing in this Bill. The second point that arose

out of his speech and to which I want to refer was that we should wait till the Federation comes into existence. In the first place my Honourable friend has not yet given us an assurance that labour legislation will be made a Federal subject. Unless labour legislation is made a Federal subject we shall not be able to pass any legislation which will apply to the Indian States. And moreover, I am quite willing to assist him in urging upon the Government of India the necessity of putting some pressure or using their influence to induce the Indian States to apply labour legislation to their territories. Sir, I am very grateful to my Honourable friend for making certain suggestions for extending the scope of the Act and I am quite sure the Select Committee will give their favourable consideration to the points which he has suggested for the extension of this Act.

Then, Sir, my Honourable friend, Mr. Abdul Matin Chaudhury, has suggested some points for the improvement of the Bill. I am sure the Select Committee will give their favourable consideration to these points also. Then my Honourable friend, Mr. Das, who has always some sympathy for labour, but never forgets the class which he represents, namely, employers, pointed out as his opinion that the rates proposed by the Commission as well as in the Bill were too high, and my Honourable friend, Mr. Mody, also said the same thing. Mr. Mody said that these were times of depression. Mr. James said the same thing. The second point made was that the cost of living of workers has gone down. In the first place these gentlemen forget that the cost of living and times of depression have already affected the wages of the workers and the compensation is always paid in proportion to the wages. Therefore you cannot...

Mr. H. P. Mody : But the wages have remained the same : surely my honourable friend knows that.

Mr. N. M. Joshi : The wages are bound to be affected and they are affected and the rate of compensation has always some proportion to the wages. Consequently this argument has no force at all. If Mr. Mody, Mr. Das and Mr. James will realise what is the incidence of the expenditure required by the industry for paying workmen's compensation, they would not have used this argument. I shall only give a few figures ; the workmen's compensation report which has been recently published states that the total amount of workmen's compensation paid was only 12 lakhs of rupees, while the number of workers engaged in the industries for which the compensation was paid may be about 30 or 40 lakhs. So if we calculate, we find that per employee in an industry, the incidence of burden thrown is about one-third or one-fourth of a rupee per year ; so that if there is any burden thrown on the industry it is only less than half an anna per worker per month. Should that consideration weigh with this House ? Is it doing to alter the condition of the industry at all ? I, therefore, feel that this argument about the depression and the condition of the industry being bad has really no force at all, because the burden of workmen's compensation is so slight that even if it is increased in these days it is not going to affect the prosperity or adversity of the industry. Then there is only one point to which I wish to refer and that is the point to which Mr. Mody referred. He said he is quite willing to accept the recommendation of the Commission that the wilful misconduct of a labourer should not be a bar against his obtaining compensation in the case of fatal accidents. But he is not prepared to accept that suggestion for what we

[Mr. N. M. Joshi.]

call permanent injury. I do not understand why he should object to this being done. As my Honourable friend, Mr. Abdul Matin Chaudhury, has stated, the principle of workmen's compensation has no connection at all to the fact that accident was caused by the negligence of the employer or by the negligence of the worker. The compensation is paid because the employer by his action of starting the industry sets in motion a machinery which gives rise to accidents ; and it is a kind of humanitarian relief given to the workmen. The workman is not given what is his legal due under the ordinary law. The workman is given a very small amount of compensation ; and therefore the principle of workmen's compensation law is that no exception should be made. Unfortunately when we framed the original legislation we made a great mistake in introducing a clause, *viz.*, section 3 (b) which prevents a workman getting compensation if the employer pleads and the Court accepts the plea that the workman has contributed to the accident by his wilful misconduct. That clause itself really is irrelevant to the whole legislation. Unfortunately that clause has been introduced and what the Royal Commission has done is to make some improvement, to correct to some extent the mistake which has already been made by the legislature ; and if we accept the plea in the case of fatal accidents, there is no reason why we should not accept the plea for a permanent injury. When this question was discussed in the House of Commons, Mr. F. E. Smith, who afterwards became Lord Birkenhead, gave a very good reply to people like my friend, Mr. Mody, who raise this argument ; he said :

“ The point of view which appealed to me so strongly was this : a workman would not commit a breach of the rules for any improper motive, if the result of that breach was likely to inflict upon him permanent disablement or death.”

A workman is not likely to do a thing deliberately knowing that it would either cause his death or would cause permanent disablement. I do not wish to speak any more on this Bill. I hope this motion for Select Committee will be passed.

Mr. G. Morgan (Bengal : European) : I move that the question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is that the question be now put.

The motion was adopted.

The Honourable Sir Frank Noyce : Sir, I am glad to find that the motion I have moved has met with such general support from all parts of the House. I have listened to the debate with much interest and I hope not without profit. Time does not permit me, nor even if it did should I consider it necessary, to follow the various speakers in their detailed criticisms of various parts of this Bill. All that I would point out to this House is that no less than five of those who have dealt with the Bill in considerable detail—Mr. Thampan, Mr. Mody, Mr. Mitra, Mr. Abdul Matin Chaudhury and Mr. Joshi—are members of the Select Committee and they will have an opportunity of presenting their point of view there. No great question of principle is involved now. The principle of the Bill was accepted when the Act which this Bill seeks to amend was passed. Details, such as the reduction in the waiting period, the enhancement or modification of the scale of compensation and the industries to which the Bill should be extended are all matters for discussion in Select Committee. As

regards the attitude of Government in the Select Committee, I can assure my Honourable friend, Mr. Mody, that the occupants of the Treasury Benches, contrary to the belief that is sometimes held, are open to reason from whatever part of the House it may come. There is one further point. Mr. Joshi has criticised the arrangement of the Government's agenda. The reasons for that arrangement are probably more obvious to other quarters of the House than they are to him ; but I venture to think that it would have been more appropriate if he had expressed his thanks to you, Sir, for summoning a Session of the Assembly to sit to-day to deal with the two measures in which he is so closely interested.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the Bill further to amend the Workmen's Compensation Act, 1923, be referred to a Select Committee consisting of Mr. G. Morgan, Mr. Satish Chandra Sen, Lala Rameshwar Prasad Bagla, Mr. S. C. Mitra, Mr. Abdul Matin Chaudhury, Mr. B. V. Jadhav, Mr. Muhammad Anwar-ul-Azim, Mr. R. T. H. Mackenzie, Kunwar Hajee Ismail Ali Khan, Mr. N. M. Joshi, Mr. K. Ahmed, Mr. K. P. Thampan, Mr. S. G. Jog, Dr. R. D. Dalal, Mr. H. P. Mody, Mr. A. G. Clow and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. S. G. Jog (Berar Representative) : I am thinking of withdrawing from the Committee : I am very much thankful...

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : What is the Honourable Member doing ?

Mr. S. G. Jog : I am suggesting another name.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : You cannot do it at this stage. The Honourable Member can withdraw from the Committee if he does not wish to serve, but he cannot suggest the addition of a name at this stage when the question is being put to the House. The question is :

“ That the Bill be referred to the Select Committee.”

The motion was adopted.

THE TEA DISTRICTS EMIGRANT LABOUR BILL.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I move :

“ That the Bill to amend the law relating to emigrant labourers in the tea districts of Assam, as reported by the Select Committee, be taken into consideration.”

Honourable Members will doubtless have observed that this important and somewhat intricate measure has emerged after ten days' intensive work in the Select Committee in a very considerably modified form. Some surprise may, therefore, be felt that the Select Committee, at the end of its Report, has recorded its view that the Bill has not been so altered as to require re-publication and has recommended that it should be passed, as now amended. The reason for that view, I think, will be found in the nature of the modifications which have been made. The House will find, if it examines the Bill closely, that with comparatively few and unimportant exceptions, those modifications have been made in the interests of labour, and I am glad to have this opportunity of acknowledging on the floor of the House the manner in which the representatives of the tea industry on the Select Committee met the demands made on them, even though these involved in some cases an additional burden on the industry. The result

[Sir Frank Noyce.]

of their conviction that the prosperity of the industry is bound up with a contented labour force has been that I have the great satisfaction of presenting to this House an agreed measure, for I notice that my Honourable friends, Messrs. Phookan, Joshi and Thampan, have not pressed their small point of disagreement with the majority of the Select Committee to the extent of moving an amendment on the subject.

Now, Sir, I think it is due to the House that I should very briefly,—for the time at our disposal is short,—attempt to indicate the nature of the amendments which have been made by the Select Committee. Much the most important of these is the change in the definition of ‘assisted emigrant’, a definition which carries with it the most important right of repatriation. As the Bill originally stood, it excluded people who had been in Assam before and had been in the tea districts there as adults. The reason for that was, Sir, that the Royal Commission on Labour, although they did not state the fact as explicitly as they might have done, wished to draw a very definite distinction between labourers who were going to Assam for the first time and those who had been there before, and to confine the rights of repatriation to those who were going up for the first time. That that is so will be clear, I think, from the following two sentences in the Report :

“Our main proposal is that every future—(and here I would draw the special attention of Honourable Members to the word ‘future’)—assisted emigrant to an Assam tea garden, whether coming from an area of free or controlled recruiting, should have the right, after the first three years, to be repatriated at his employer’s expense.”

And again, Sir, at the end of that Chapter of their Report which deals with recruitment for Assam, they say :

“We would observe that, if work is adequate, the right of repatriation will be limited to new recruits.”

The Select Committee, however, thought it desirable that we should go further than the Royal Commission on Labour recommended, and that the right of repatriation should be given to all labourers who go to Assam, except those who at any time within the two preceding years have worked as labourers on tea estates. Their reasons for this view were that they thought that people who had been away from Assam for more than two years should be regarded as new recruits. They thought that conditions in Assam might change within two years, though I feel sure myself that if conditions now change in Assam they will change for the better, and that therefore the labourers might be going back to conditions which were different from those they had experienced before. It is for this reason, Sir, that the right of repatriation is being given to all labourers except to those who have been away from Assam for less than two years and have obviously therefore not lost the intention to return. Such labourers will ordinarily be on leave or will have come down to recruit others.

The next important change which has been made in the Bill is that the right of repatriation is now being given “for any sufficient cause”. That is in accordance with the recommendation of the Royal Commission on Labour, but it was felt when the Bill was drafted that the acceptance of the recommendation would give too wide a discretion and that considerable difficulties might occur in interpreting the word “for any sufficient cause”. In regard to this, Sir, the Select Committee felt that a recommendation

which had been made by the Royal Commission on Labour could not be lightly ignored, nor could a right which is conferred on emigrants to Ceylon and Malaya be denied to emigrant labourers going to Assam. The difficulty in regard to construction has been got over by the expedient of confining decisions in cases of this kind to the Controller of Labour, whereas power to decide other cases of repatriation can be delegated to other officers. But in this case the Select Committee thought it necessary that the final decision should rest with the Controller alone in order that "for a sufficient cause" may be interpreted in a uniform manner throughout all the districts to which this Act applies. If we had decided otherwise and left the decision to the various officers to whom the powers of the Controller may be delegated, we should have got interpretations differing widely according to the temperaments of the various officers and whether their sympathies lay with the employer or with the labourer. Those are the two most important changes which have been made in the Bill. There are a few others which I may mention. The repatriation of the husband and family of a married woman who dies, even when the husband is himself an assisted emigrant, is now permitted. We have also made provision that an emigrant labourer should be repatriated to his home and not to the place where he was recruited. Another alteration which is, I think, of sufficient importance to justify my mentioning it is the provision that an assisted emigrant shall not sign away his right of repatriation immediately on his arrival in Assam as he could have done under the Bill as it stood. He is now allowed to do so only within a month of the time when the right accrues to him and we have made provision to ensure that, when he does agree to postpone or waive his right of repatriation, he should know exactly what he is doing.

Then, again, Sir, we have further made provision that all emigrants who proceed to Assam with assistance, that is practically all emigrants should come under the provisions of clauses 34, 35 and 36, that is that they should be detained and, if necessary, returned if they fall sick or have been improperly recruited. The Bill as it originally stood only applied to emigrants who went as assisted emigrants.

In conclusion, I venture to make an appeal to the House to follow my example in the matter of brevity. The House has heard from the Leader of the House this morning that it will not be possible to take up any more Government business after to-day except the legislation to replace the Ordinances. That means that, unless this Bill proceeds through its next two stages this afternoon, it will have to be postponed to the next Session and possibly to the one after that. It is very important to note that Government, the Select Committee and the representatives of the industry and those who speak for Labour are all equally anxious that this measure should be placed on the Statute-book as soon as possible. It is the intention of Government that it should be brought into force from the 1st of April next but, even after it has been passed by this House and by the other House, there is still a great deal of work to be done in elaborating the necessary machinery and in framing rules and regulations. As I have already said, Sir, we spent 10 days in the Select Committee over this measure and worked very hard. I have very gratefully to acknowledge the help we received from all members of the Select Committee and I venture to think that it will be a poor recognition of their labours if the Bill does not reach its conclusion to-day.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) . I should like to mention at the very outset that I feel very unhappy about this Bill . In the first place, this Bill applies, for reasons which I do not know, only to Assam. Assam is not the only tea producing country in India. There are other provinces as well which produce tea. There is Dehra Dun in the United Provinces, there are also two very important districts, Darjeeling and Jalpaiguri, in Bengal. Then we have got Bihar and Orissa and also Madras which produce tea just as much as Assam.

The Honourable Sir Frank Noyce : I should like to inform the Honourable Member that the only legislation that is already in force applies to Assam and that it is for this reason that we are now bringing forward fresh legislation to replace the old legislation. There was no legislation applicable to other parts of India.

Dr. Ziauddin Ahmad : The old legislation may be repealed. We have got other provinces which produce tea just as much as Assam. The conditions of labour may be slightly different. Labour in Assam may have been imported from 300 or 400 miles away, but labour is imported all the same everywhere, though the distance may be only 100 miles. There is no labour in any place which may be called a local labour. Therefore, I do not understand why should restriction be imposed only on Assam. My point is, Sir, that if you put this extra cost on the production of tea in Assam, then certainly it will suffer as compared with other provinces. The second point I should like to urge is that Assam tea is already at a disadvantage compared with tea from Java. If we put this extra burden on the production of tea from Assam, I am afraid India and especially Assam will not be able to compete with other countries. The only argument pointed out to-day is it was the recommendation of the Labour Commission. I agree with Sir Frank Noyce when he said that these recommendations could not lightly be ignored. At the same time I do submit that we should not slavishly follow their recommendations. (*Mr. N. M. Joshi* : " Why ? ") I will tell you why. The Labour Commission probably considered that their only concern was with labour and with nothing else. Therefore, the Commission put in as many recommendations as possible about the protection of labour and the other side which was equally important was ignored and that other side of the question is whether by increasing the cost of production India will be able to compete with the manufacturers of other countries. My friend, Mr. Joshi, always tries to increase the cost of production by giving the maximum amount of wages. I have a strong suspicion that my friend has got an unholy alliance with the manufacturers in foreign countries wisely or unwisely, knowingly or unknowingly, because the result is the same.

Mr. A. G. Clow (Government of India : Nominated Official) ; Were the employers on the Labour Commission also in that conspiracy ?

Dr. Ziauddin Ahmad : I find that the Report of the Royal Commission is entirely one sided and the other side is not very much considered.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : There were representatives of capitalists on the Labour Commission.

Dr. Ziauddin Ahmad : These were in hopeless minority.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : The Honourable the President was a member of that Commission.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : He has not signed the Report.

Dr. Ziauddin Ahmad : If you increase the cost of labour, you will certainly increase the cost of production and by increasing the cost of production it will be exceedingly difficult for this country to compete with foreign manufacturers. And this is a point of view which I think we should always keep in mind. Sir, in all these Bills before us arising out of the recommendations of the Royal Commission on Labour I am afraid we have been very slavishly following the recommendations of Labour Commission without carefully considering the other side of the question. I am entirely in favour of giving all legitimate comforts to the labourer, but at the same time there should be a limit, so that this factor may not raise up the cost of production unreasonably. Sir, I have pointed out I think in this House two or three times that the representatives of labour, including my Honourable friend Mr. Joshi, have always taken up the wrong end of the stick (Laughter) ; Mr. Joshi presses always the wrong button and instead of doing any good to labour, I think he is doing a definite harm to his clients. (*Mr. B. V. Jadhav* : "Not at all.") Well, I am quite sure of what I say. Now I said repeatedly that no doubt labour should be made partner in the profits of every manufacturing industry including tea. Whenever any tea garden is making good profit, then a part of it must also go to the labour in the shape of gratuities or in the shape of bonus. This is a thing which is very desirable ; and had he pressed the view that the profits must not go entirely into the pockets of the capitalists but should be divided in a certain proportion between capitalists and labour. I would certainly have sided with him and I would have given him the fullest support, but whenever he tries only to increase the cost of production by providing unnecessary additions to expenditure, I am afraid our country will not be able to compete with other foreign countries and our manufacturers will always go down. Sir, we have already got the example of weaving industries here and I pointed out the other day that according to the opinion of manufacturers in Japan there is a very great room for economy and better administration and higher efficiency of working in this country ; and if instead of laying stress on the economic working, we lay stress on the increasing cost of production, will it be possible for our weaving factories to compete with foreign countries ? Sir, if our factories and mills go down and if they cease to exist on account of foreign competition, what will be the result ? They will not be able to employ labour and ultimately the result will always recoil on the clients of my Honourable friend, Mr. Joshi. Instead of improving the condition of labour, the result of all his misguided efforts may be that the whole business may go down. Then in that case those persons who are getting reasonable comforts will afterwards get nothing, because the employers will not be able to compete with all the manufacturing concerns in the foreign countries. Therefore, Sir, in all matters like these, when we consider the recommendations of the Labour Commission—who naturally were concentrating only on all possible avenues for the benefit of labour—we should also consider the other side of the question, namely, whether you are not increasing the cost of production to an extent which that particular industry may not be able to bear,—and this is a side, Sir, which I am

[Dr. Ziauddin Ahmad.]

afraid we are not considering as carefully as we ought to. With these words, I repeat that I am very unhappy about the Bill, though I do not want to oppose it.

Mr. Gaya Prasad Singh : Sir, I have no intention of inflicting a speech at the fag end of the day, but I find that the placid atmosphere of the House has been somewhat disturbed by my Honourable friend, Dr. Ziauddin Ahmad, who, I am surprised to see, appears to have taken up an attitude of hostility to the welfare of labour. (*Dr. Ziauddin Ahmad :* "I have already said that I do not oppose the Bill.") My Honourable friend, in the first place, complained that this Bill is confined only to the tea districts of Assam and not elsewhere. The simple reason for that is. I understand, that there is no legislation in this country which controls the emigration of labour from one province to another except in the tea districts of Assam, because the conditions of labour in Assam are quite distinct from the conditions of labour obtaining in other parts of the country, and there was no necessity for enacting any legislation controlling or in any way affecting the movement of labour from one province to another except in the province of Assam. Sir, I shall not go into the past history of the conditions of labour in Assam. I want to draw a veil over what the planters in Assam did, or omitted to do in connection with the welfare or the treatment of their labourers in Assam. Suffice it for me to say that the Assam Labour and Emigration Act of 1901 was the Act which was in force, and we are going by means of this measure to substitute the present legislation for the one which was in force in the tea districts of Assam. That was the reason why it was not thought proper to include other provinces in this Bill. Then the second point which was taken up by my Honourable friend was that the Assam tea industry was at a disadvantage as compared with the Java tea industry. Sir, I am really surprised to see that my Honourable friend has taken up an attitude which is very much akin to the attitude of the capitalists, as distinct from the point of view which a labourite like my Honourable friend, Mr. Joshi, would like to put forward. Sir, the one thing in this connection which my friend said was—and he harped a great deal upon it—that if we increased the facilities given to labour in Assam or in any other place by way of amenities, that would increase the cost of production, and that might affect the manufacturers in this country. Sir, it is a recognised principle all over the country at the present time that labour must get proper and even generous treatment at the hands of capitalists and employers.

Dr. Ziauddin Ahmad : Yes, by our giving them a bonus—not by increasing the cost of production.

Mr. Gaya Prasad Singh : Sir, if my Honourable friend will look at the treatment which labour receives at the hands of Government and capitalists in other parts of the world, he would have been a little more cautious in the language which he used. However that may be, I am very glad to note that the principle of repatriation has been definitely recognised by this legislation. Sir, the Bill as it was introduced by Government in this House was open to certain serious objections ; but, as a member of the Select Committee, I gladly acknowledge the assistance rendered to us by the Members of the Government, and I especially acknowledge, Sir, the very conciliatory attitude adopted by the Honourable

Member in charge, my Honourable friend, Sir Frank Noyce, and his colleague, Mr. Clow. (Loud Applause.) Almost all the suggestions and amendments put forward by us from this side of the House were very sympathetically taken up and discussed by the Members representing the Treasury Benches, and I observed a real solicitude on their part to accommodate us to whatever extent it was possible. (Loud Applause.) I also gladly acknowledge that the representatives of the tea planters of Assam were also very reasonable and conciliatory in their attitude on the whole. (Loud Applause.) Sir, the Bill has been framed on the lines recommended by the Royal Commission on Labour. The ideal which was put forward by that Commission was that as little restriction as possible should be placed on the movement and transport of labour from one part of the province to another.

On the whole, I find that this Bill is a very salutary piece of legislation which has been introduced and which we are about to place on the Statute-book. The last remark which I will add is this. The real purpose which the Royal Commission on Labour had in view cannot be fulfilled without the other recommendations of that Commission being given effect to, and this was the recommendation which the Select Committee also made. They have said at the end of their report :

“ We desire to record our emphatic view that the objects underlying this Bill cannot be fully achieved unless effect is given to other proposals and recommendations of the Royal Commission on Labour relating to the welfare of labour in Assam and that steps should be taken to give effect to them as early as possible.”

We brought forward this subject in the Select Committee, but we were given to understand that that was a provincial subject and so the Central Legislature was not the proper authority to legislate on it. I hope that the Government of Assam and the Assam Legislative Council will have a speedy opportunity of going into the other parts of the recommendations of the Royal Commission on Labour, and that legislation on the lines recommended by the Royal Commission will be enacted in the Assam Legislative Council. With these words, Sir, I heartily support the motion. (Applause.)

Dr. R. D. Dalal (Nominated Non-Official) : Mr. President, in any legislation on labour such as is proposed and incorporated in the Bill before this Honourable House—the Tea Districts Emigrant Labour Bill,—Government have to consider two interests : Government should do no injury to the tea planter and Government should not shirk their responsibility to the tea labourer. Removal of restrictions to the free movement of labour, power to exercise control over the recruitment and the forwarding of labour to Assam, and the right of the emigrant to Assam to repatriation at the end of three years—these principles, which have been accepted by this House and endorsed by the Select Committee, ought to meet with the frank and cordial acceptance of the tea planters, who reprobate not less than do the Government of India the practices and the results of a wicked system of professional recruiting falsely known under the designation “ free ”. Sir, the tea labourer is not a shrewd person ; and great injustice is apt to be done if this fact is not borne constantly in mind. Recruiting agents tempt this poor ignorant person to go to Assam by glowing promises, and expressly or by implication deceive him as regards the conditions of service, and the nature of the length of the journey to Assam. and also the climatic and health conditions in Assam. In this connection I would point out that the Bombay system

[Dr. R. D. Dalal.]

of taking recruits before a first class magistrate, who ascertains that the recruit has fully understood the terms and the conditions of his employment, has worked satisfactorily ; and I presume that under clause 21 of this Bill the Local Government would be empowered to make rules of this kind.

Sir, it has been urged that the questions of sanitation, medical relief, education, housing conditions, maternity benefits, welfare board, and wage fixing machinery—all these should find a place in this Bill or the Government of India should take requisite action about these matters. But I submit, Sir, that these are provincial transferred subjects and are matters of the primary concern of the Local Government ; so I consider that it would be an uncalled for and malevolent interference—nay an encroachment on the rights of the Local Government.

Now, Sir, with reference to paragraph 3 of the Select Committee's report, it is desirable that the House should have an idea as regards the health conditions in Assam in relation to labour. So, Sir, with your permission, I shall proceed to say just a few words as regards the health conditions in Assam in relation to labour, and in doing so I shall have to refer to a few vital statistics. These vital statistics, I fear, the House may find rather uninteresting, but as the matter is of great importance, I hope the House will extend to me indulgence and will bear with me. A humid and malarial atmosphere is the real enemy of Assam. Malaria is of wide-spread importance, and is the most troublesome and ubiquitous menace in the health of Assam. Malaria more than the toll of life it exacts saps the vitality and energy and economic powers of the people as a whole more than any other disease. Sir, while talking of malaria, may I be allowed to pay a tribute to the great scientist and conqueror of malaria—Sir Ronald Ross, who has just passed away. To resume my subject : Assam is also the chief seat of a disease, which is known as Kala Azar or black fever. So, Sir, the climatic conditions, and the chief prevailing diseases, namely, Malaria and Kala Azar, and a low wage are quite enough to staunch the flow of the stream of free labour into Assam. It is highly desirable to increase the wage of the labourer ; but owing to over-production and world-wide trade depression the tea industry is at present in so depressed and impoverished a condition that I think it would be unwise to make any increase in the wage of the labourer. During the last few years considerable improvements have taken place in the health conditions of Assam. A few years ago the death rate was always greatly in excess of the birth rate, but now the reverse is the case—as a result the population has increased. During the last 20 years the population of the province of Assam has increased by 29 per cent. Now, Sir, as there is very little time at my disposal I do not wish to refer to vital statistics ; and I will content myself by saying that during the last few years owing to anti-malarial measures there has been a considerable fall in malaria incidence, and there is a steady decline in the mortality from Kala Azar also. Formerly the name Kala Azar was mentioned with terror by the inhabitants—the case mortality rate was 95 per cent. But, Sir, the success in the treatment of Kala Azar marks one of the greatest therapeutic triumphs of recent times ; and it redounds to the credit of the British Raj in India that a disease, which has existed for centuries with the case mortality rate of 95 per cent., has been converted by dint of British Medical Science into one with

a recovery rate of 95 per cent. In all the circumstances that I have mentioned and from the medical and public health picture that I have painted it will be conceded that Assam can no longer be regarded as a specially unhealthy Province, and if the labourer could be convinced that Assam holds out better prospects, better advantages, better opportunities than are available in the home of the labourer, I see no reason why free labour should not flow into Assam.

Sir, there is one provision in clause 40 of the Bill which has been the subject of some controversy and about which opinions are sharply divided. Personally I am not in favour of the proposal to transfer the funds of Assam Labour Board to the Emigrant Labour Fund or to redistribute the funds to the subscribers. I would respectfully suggest that the accumulated balance should be left intact, and that the interest thereof should be utilised for welfare work on the tea estates. In

4 P.M.

Assam the maternal mortality rate is dreadfully high. The maternal mortality rate in 1930 was 19.44 per 1,000 live births as compared with 4 in England. I will explain this. In Assam in 1930 one woman died to every 50 live births, while in England one woman died to every 250 live births. In this connection I would respectfully beg to make a suggestion, and it is that wives of tea planters, who are the comrades of their husbands, should take a deep interest in this important matter ; and they should spend time and energy to organise and to establish maternity and infant welfare centres as is done by wives of officers in the Army.

Sir, the tea planter is fully conscious that the labourer is the bone and the sinew of the tea industry, that by the sweat of his brow tea is produced, that from his labour enormous profits have accrued to the tea industry, and that therefore the labourer should be the first and the main object of the planter's regard. Now, Sir, let us see what the tea-planters in Assam have done for their workers. In Assam the tea industry has an efficient medical and public health service. To meet the medical and sanitary needs of the Tea Estates the industry maintains 750 qualified medical officers and 61 highly qualified District Medical Officers. The vital statistics are collected by a qualified agency, so the registration of vital statistics is accurate ; and the vital statistics of the Tea Estates are far more satisfactory as compared with those of the Province of Assam. The industry spends 52 lakhs of rupees on medical relief and sanitation annually ; and the Indian Tea Association of Assam contributes Rs. 40,000 every year towards medical research. Here on the tea estates the labourer is not under the clutches of the *Shahukar*. The tea planter saves the labourer from the usury of the money lender and rescues him from bondage. In this connection I desire emphatically to express my opinion that the public should have no right of access to the Tea Estates. I say this for two reasons. The money lender will make the most of this opportunity, and he will play havoc with the labourer as was the case in his own home. Further, there would be a great risk of introducing infectious diseases into the residential lines of the Tea Estates

Mr. A. G. Clow : On a point of order, Sir, is this relevant to the present Bill ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member argues why labour should be allowed to go to Assam without restrictions.

Dr. R. D. Dalal : Now, Sir, I shall bring my remarks to a close. I cheerfully support this Bill, as this measure is fraught with great and indisputable advantages to the labourer, and as it will also conduce to the benefit of the employer—the tea-planter.

Mr. J. A. Milligan (Bengal : European) : Sir, the Bill before the House is primarily designed to give effect to the recommendations contained in Chapter XX of the Whitley Commission's Report, but it does not take its origin from that Report. It also represents the last phase of a long series of negotiations and discussions between the Government of India and various Local Governments on the one hand, and the tea industry on the other. In the course of these negotiations every aspect of the subject of emigration to Assam has been thoroughly examined. A Bill was actually prepared in 1928, but its introduction was postponed in view of the appointment of the Whitley Commission. The Commission set the seal of its approval on the understanding which had been reached in 1928 on the subject of recruitment between the Government of India and the tea industry ; but it laid down that the grant of rights of repatriation to new emigrants should no longer be optional to employers but should be made obligatory by statute. This Bill therefore deals with repatriation as an integral part of emigration. When it is remembered that every kind of penal contract has been abolished and that emigrants now-a-days go to Assam as free men under no obligation to stay even a single day on a tea estate if they do not like it, it will be realised—at any rate by all employers of labour—what a big concession has been made by the Assam tea industry in voluntarily accepting this obligation. We are assured by the Whitley Commission that this boon to the labourers will go far towards the solution of our labour difficulties. The experiments made by the industry on a large scale in recent years in this direction justify that hope so long as freedom from restrictions in the process of actual recruiting is assured.

The Bill, in its final form, has been framed on a basis of agreement. The industry has readily acquiesced in a scheme of repatriation which goes far beyond anything that is offered to emigrants who go from India to Ceylon and Malaya and in some respects goes beyond the recommendations of the Whitley Commission itself. This industry is therefore justly entitled to expect the fulfilment of its recruiting aspirations about which the Commission wrote as follows :

“ We consider that this is a reasonable claim and in the proposals that follow we have done our best to meet it.”

The three cardinal points of the Commission's proposals are : free recruiting, control over forwarding as long as this may be deemed necessary and retention of power by Government to reimpose restrictions in the unlikely event of serious abuses becoming prevalent.

The Bill provides for free recruiting unless and until Chapter IV is introduced, which the industry maintains will never be so long as the principles enunciated in the Whitley Commission Report and in the Statement of Objects and Reasons are the sole criterion, and this the industry is entitled to expect. We are most emphatically of opinion that the one and only reason that can ever justify the reimposition of

restrictions on the methods of recruiting is 'the interests of the emigrant'. So long as the emigrant is not in any way victimised, no other consideration should be allowed to interfere with the free movement of free labourers to the tea estates of Assam.

Chapter III provides for control over forwarding and I wish to emphasise the fact that the industry itself is responsible for the inclusion of a measure of control under this Chapter which goes far beyond what the original draft of the Bill provided. They have taken this course to ensure that no evasion of the Act will be possible : their intention being to perfect a system of self-controlled recruitment which will in a few years time render the retention of statutory control and statutory safeguards unnecessary.

The provision in the Bill for retention of power by Government to reimpose restrictions are drastic. While we deplore this apparent lack of confidence in the *bona fides* of the industry, we make no protest as we feel certain that the powers provided will never need to be exercised ; but it is most regrettable that there is no allusion in the Bill to the basic principle stated by the Royal Commission in these words :

"The main criterion which must be satisfied by any scheme of control is that it must give a reasonable prospect of eliminating itself."

There is nothing in the Bill to suggest that either it will automatically come to an end in certain eventualities, or that the situation will be reconsidered after a reasonable lapse of time, say five years as suggested by the Commission. As there is no question now of embodying in the Bill itself any such stipulation, the tea industry would strongly press for an assurance from the Government of India that the whole question will be reconsidered in five years time.

Reference has been made to conditions on tea estates and the speedy enforcement of the other recommendations of the Whitley Commission contained in Chapters XXI and XXII has been urged. In this connection, I should like to remind the House of what the Whitley Commission put on record and to that end I shall make three brief quotations from the Report. On page 376, we read :

"At one extreme are gardens",

—that is in Assam,—

"where health and welfare receive adequate attention and where sufficient land is available for private cultivation."

Again, on page 390, we read :

"As a matter of fact annual earnings in the Assam plantations are higher than those of agricultural workers in most parts of India, and in considerable areas of Assam they appear to be higher than in other plantations."

Again, on page 418, on the subject of Boards of Health and Welfare, we read :

"Most of what has been said in the preceding paragraphs is already accepted by the majority of those engaged in the planting industry, and some have given much time and thought to the problems associated with the health and welfare of their labour forces."

[Mr. J. A. Milligan.]

From these quotations it will be obvious that the more prosperous estates are already carrying out a programme which is at least up to the standard of the recommendations. It will, I submit, be a grave mistake to enforce too suddenly on the less prosperous estates all the recommendations of the Commission. In an economic crisis like the present one, many of these estates are on the brink of disaster. The imposition of further burdens may well mean their total extinction in the next depression with the result of widespread unemployment. A remarkable feature of the present crisis in tea is that there is no unemployment in Assam, except amongst the employing class. Estates that are literally on the verge of bankruptcy are still providing their labourers with a living wage.

There is also another aspect of the problem. The tea industry has not reached its final stage of development in Assam ; there is still a large field for Indian capital in tea.

India at present consumes only some 50 million pounds of tea and India is undoubtedly one of the big tea drinking countries of the future. It is no exaggerated estimate to say that within a measurable period India will consume 3 or 4 hundred million pounds of tea. The cultivation of tea either in India or elsewhere is bound to expand to cope with this increase of consumption. In view of this prospect it is not unreasonable to advocate caution in the imposition of fresh burdens on the industry, as it is desirable that the expansion of tea cultivation should be in India and not in other countries.

In spite of all its shortcomings the industry accepts this Bill as it stands in the hope that the recruiting disabilities which have added so seriously to its expenses of production in the past will be removed by this measure.

***Mr. Nabakumar Sing Dudhoria** (Calcutta Suburbs : Non-Muham-madan Urban) : Sir, in rising to accord my hearty support to the provisions of this Bill, I give pointed expression to my feelings of great delight at the measure as a legislation on such lines was long desired for. I cannot let go this opportunity to offer my sincere congratulations to the Honourable the Labour Member and his official and non-official colleagues for the great care and consideration that they have bestowed on this very important matter. Assam labour conditions and, along with these, recruitment conditions have hitherto been a matter of great public concern and severe public comment, as those conditions have always reflected a lot of foul play, such as undue influence, coercion, fraud and harassment. The life and existence of emigrants were hitherto considered a life of servitude, a mode of slavery that was only assisted and regulated by law. I only wish that the Assam tea interests and the Local Government would now make a holy combination to give due and full effect to the salutary provisions contained in the Bill. It is also expected that the Central Government, by reason of the distance, will not any longer relax their strict supervision in all matters affecting Assam labour.

*Speech not revised by the Honourable Member.

The spirit and provisions of the Bill are all, I must say, to the ultimate benefit of labour primarily intended for tea plantations in Assam. But, Sir, as our labouring population is yet uninformed and uneducated, it is the duty of Government to get at least the main provisions of the Bill translated into the chief vernaculars of the provinces, and distribute them broadcast among the people from whom Assam labour recruitment is generally made ; or, for the matter of that, every recruitment officer should be strictly instructed to acquaint thoroughly the would-be emigrants with the chief provisions of the Bill affecting their interests before they are actually recruited.

Again, Sir, in order to disarm all sorts of public criticisms, it will be advisable to appoint a few non-official visitors who, assisted by the Controller and his staff, should be allowed free access to the tea estates and emigrant habitations to examine periodically the health and housing conditions. I feel sure, Sir, that the tea interests will stand nothing to lose, but everything to gain by the acceptance of this proposal of mine. Next, Sir, I cannot but emphasise that when tea interests are required to undertake to look after the health and housing conditions of the emigrants, they are in duty bound as well to make some arrangements for the elementary education of their children during the period of their stay in the plantations, as has been so opportunely suggested by my Honourable friend, Mr. B. N. Misra, in his note appended to the Bill.

Next, Sir, clause 39 (1) of the Bill is so framed that it will go to prejudice the interests of persons other than tea planters who may have occasion to engage themselves in trades and pursuits involving labour in Assam, such as timber extraction and the like. The clause, as it has been worded, evidently intends that those people should engage their labour through the agency of the Tea Districts Labour Association. In that event, the persons who will have occasion to get their labour in that way will be put to a lot of extra expense and worry. I submit, Sir, that the labour which those people will require will be of a temporary nature generally for the winter season and thus they will seldom engage family groups. If, therefore, traders, other than tea planters, have to recruit their labour through the expensive agency of the Tea Districts Labour Association, they will think twice before they go to Assam for any kind of trade that requires labour. In that event, Government interests, particularly in the matter of working of forests, will be indirectly greatly handicapped. I would suggest, therefore, that the wording of clause 39 (1) of the Bill be so framed as to make the provisions applicable to tea plantations only, where labourers are required by the terms of their contract to make a stay of some years at a stretch. If the reasonableness appeals to the Honourable the Labour Member, I hope he will accept my suggestion forthwith.

Sir, all that I have suggested above for the consideration of Government may be easily given effect to by means of bye-laws which the Local Government, in consultation with tea interests, are yet to frame.

Mr. N. M. Joshi (Nominated Non-Official) : Sir, as I am anxious that this Bill should pass before the House adjourns this evening, I shall make only a few remarks on this Bill. In the first place, I should like to congratulate my Honourable friend, Mr. Milligan, who represents the Assam tea industry here, upon having secured a very important ally in the person of my friend, Dr. Ziauddin Ahmad. Sir, he has chosen not to be an ally only of the tea industry, nor of the benches and the persons sitting on those

[Mr. N. M. Joshi.]

benches in the European Group, but he has taken upon himself to be an ally of all the capitalists in this country. Sir, my friend, Dr. Ziauddin Ahmad, suggested that I am in a conspiracy with some foreign capitalists. Let me assure my friend, Dr. Ziauddin Ahmad, that he is not so very original in that suggestion. I have heard those suggestions not once but several times and not only here but elsewhere also. And let me tell him very frankly that if in the interest of Indian labour it becomes necessary for me to take the assistance of any one in this world, whether it be the foreign capitalist or the foreign labourer, I shall not hesitate to take it. Let me also tell my Honourable friend, Dr. Ziauddin Ahmad, that I am as anxious, perhaps I am more anxious than he is, for the development of industries in this country but let me also tell him very frankly that if an industry cannot give humane conditions of life and work for the labourers, that industry, in my humble judgment, does not deserve to come into existence, and does not deserve to continue. (Hear, hear.) Let me very respectfully and humbly tell my friend, Dr. Ziauddin Ahmad, that this Bill is not mainly framed in the interests of labour at all. This Bill is brought forward by the Government not mainly in the interests of labour, but in the interests represented by my friend, Mr. Milligan. We had legislation restricting the recruitment of labour to Assam. Now, this restriction of recruitment caused great expenditure to my Honourable friend, Mr. Milligan, and those interests which he represents ; and this Bill is intended to remove those restrictions so that the expenditure to the planters may be reduced. I am therefore surprised—perhaps I am not surprised—considering the general attitude of my honourable friend in this House. He is anxious to express his views on all subjects ; and whether a Bill is intended to reduce the cost of production or not my friend Dr. Ziauddin Ahmad as he has always got something interesting to tell must always speak. The main object of this Bill is to remove the restrictions which were so long imposed upon the recruitment of labour in Assam. This Bill seeks to remove those restrictions on certain conditions. I do not wish to go into the details of this question ; but let me briefly state this : that this question of the supply of labour for Assam tea gardens has been bungled and has been attempted to be solved in a wrong way. The tea planters tried to recruit labour in a reckless manner and Government sought to put restrictions, with the result that even in fifty years' time the problem of the supply of labour has not been solved at all. If the problem of labour supply to Assam is to be solved it can be satisfactorily solved in a different way. I have absolutely no objection that labour should be allowed to go to Assam freely and without any restriction. It is true that labour will not ordinarily go to Assam and if labour is recruited in a reckless manner there will be difficulties both to the planters as well as to the Government and also for the labourers ; but what is necessary to be done is this : let labour be free to go ; let there be no restrictions in recruitment ; but let labour be protected in Assam. Let labour be supplied with proper conditions of life and work in Assam. The Royal Commission on Indian Labour has made recommendations for that purpose. The Select Committee has also recommended that if the problem of the supply of labour to Assam is to be properly solved the other recommendations of the Royal Commission should be given effect to. I would also like that there should be a proper system of inspection of the gardens and inspection of the conditions given to the labourers on

tea estates. If this is done, the problem of the supply of labour will be solved. Let the planters also instead of depending upon elaborate and costly method of recruitment depend on the attractions of life and work in Assam in order to secure labour. Unfortunately they have been making a mistake. I hope the planters will see their mistake and follow a better way of securing labour.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa : Muhammadan) : Do you support or oppose the Bill, I want to know ?

Mr. N. M. Joshi : My Honourable friend has not read the report of the Select Committee. (*Mr. M. Maswood Ahmad* : "I have read the report, but your speech is not clear.") I am not against the Bill. I am in favour of this Bill, but, at the same time, I do not think that this Bill is intended by Government in order to help labour. This Bill is mainly intended to remove the restrictions on the recruitment of labour in the interests of the planters. I support this motion.

Some Honourable Members : The question may now be put.

Mr President (The Honourable Sir Ibrahim Rahimtoola) : I accept the closure. The question is that the question be now put :

The motion was adopted.

The Honourable Sir Frank Noyce : Sir, I have only a very few remarks to make at this stage. I should, I think, refer to Mr. Milligan's dislike of the provisions of Chapter IV of the Bill and his desire that the Government should give an assurance that the position will be reviewed in five years' time. Mr. Milligan knows as well as I do that the occupants of the Treasury Benches at a time like the present are not in a position to give an assurance such as that. I have no doubt whatever that the Government, both now and after the constitutional changes which we are anticipating, will watch the working of this Act very carefully and will take steps if they consider it desirable to remove the restrictions imposed by Chapter IV. But as I have already said, I am not in a position to give an assurance on that point. There is only one other point to which I would refer. I am afraid I disagree with Mr. Joshi in his contention that this Bill is in the interests of the employers of labour only...

Mr. N. M. Joshi : What is the main object of the Bill—to remove the restrictions on recruitment, is it not ?

The Honourable Sir Frank Noyce : The main object of the Bill is to see that the conditions of the recruitment of labour for Assam are entirely satisfactory. It does seem to me that, as Mr. Milligan has said, it is a compromise and that it deals fairly with both employers and labour. I cannot see that Dr. Ziauddin Ahmad's fears are in any way justified when it is remembered that the Bill has received the cordial assent of the representatives of the industry. If they have no fears in regard to its effect on the industry, I do not think that any one else need entertain such fears. Finally I should like to thank those Members who have made generous references to the small part I have played in shaping a measure which I am sure will be of benefit, I would again repeat, both to the employers in Assam and to their labour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the Bill to amend the law relating to emigrant labourers in the tea districts of Assam, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clauses 2 to 11 were added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is that clause 12 stand part of the Bill.

Sir Lancelot Graham (Secretary, Legislative Department) : Sir, I desire to move the amendment that stands in my name. That amendment reads as follows :

“ That in sub-clause (2) of clause 12, for the words ‘ to the Controller, whose decision shall be final ’ the words ‘ for decision to the Controller ’, be substituted.”

Sir, the purpose of my amendment is mainly clarificatory, and paradoxical though it may seem, the purpose of the amendment is to make it clear that all the decisions of the Controller are final. Under Chapter II, and again under Chapter V, of the Act, certain powers of making inquiries and reaching decisions are conferred upon the Controller. Thus, under section 8 of the Bill, in the Chapter dealing with repatriation with which we are now concerned, Honourable Members will find that it is stated :

“ After such inquiry as he may think fit and after giving the employer an opportunity to be heard, the Controller may declare that the labourer has the right of repatriation against such employer.”

Again, Sir, similar powers have been conferred on the Controller under clauses 9 and 10. It will probably be observed in regard to those powers that it is not declared that the decision of the Controller shall be final. That declaration is only made in respect to the power of the Controller under clause 12 in which it says :

“ In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred to the Controller, whose decision shall be final.”

Now, Sir, I imagine that any one trying to appreciate the various powers of the Controller will say that as it is only stated with reference to one clause that his decision should be final, his decision arrived at in exercise of the powers given to him under other clauses would not be final. It was, I understand, the intention of Government, and equally the intention of the Members of the Select Committee, that the decision on these matters and also the decision under clause 15 as a result of an inquiry conducted by the Controller should be final. Clause 15, Sir, runs as follows :

“ Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.”

Now, Sir, I think it is fairly obvious that that power was intended to be a final power. This is a matter, Sir, of dispute purely on questions of fact between the employer and the employee. and it is the opinion of

Government and I understand of the Select Committee that the Controller should be the final authority in all these matters and not only in the matter referred to in clause 12. Consequently, Sir, I have brought forward, with reference to clause 12, an amendment to take out those words which give finality to the decision. The result will be that all the decisions of the Controller will be on a par. Thereafter, Sir, in order to make the position quite clear, I shall move an amendment after clause 39-A stands part of the Bill to insert clause 39-B, and the purpose of that amendment is complementary to the present amendment. The purpose is to make it clear that these matters are to be decided by the Controller and the Controller only, and that a Civil Court.....

Mr. S. G. Jog (Berar Representative) : On a point of order, Sir. Can an Honourable Member move two amendments at the same time ?

Sir Lancelot Graham : As I have said, later on I shall move an amendment which is complementary to this amendment, and I will refer to it for the purpose of making clear the purpose of this amendment. The purpose of this amendment is to place on a par all the decisions of the Controller and the purpose of the amendment which I shall move in due course is to remove any doubt as to whether the Civil Courts have any jurisdiction or not. I now move, Sir, my first amendment :

“ That in sub-clause (2) of clause 12, for the words ‘ to the Controller, whose decision shall be final ’ the words ‘ for decision to the Controller ’, be substituted.”

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment proposed :

“ That in sub-clause (2) of clause 12, for the words ‘ to the Controller, whose decision shall be final ’ the words ‘ for decision to the Controller ’, be substituted.”

The question which I have to put is that that amendment be made.

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is that clause 12, as amended, stand part of the Bill.

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clauses 13 to 25 were added to the Bill.

Clauses 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39 and 39-A were added to the Bill.

Sir Lancelot Graham : Sir, I move :

“ That after clause 39A of the Bill the following new clause be inserted :

Bar of jurisdiction ‘ 39B. No Civil Court shall have jurisdiction—
of Civil Courts.

(a) to deal with or decide any question which the Controller is, by or under
this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act ’.”

I have already said the greater part of what I have to say in support of this amendment while moving my amendment to clause 12. I have only to add that this clause gives final force not only to the decisions which the Controller will give under Chapter II of the Bill which confers various rights of repatriation on labourers, but also to the decisions which the Controller is empowered by this Bill to give in matters arising out of sections 34, 35 and 36. As I said before, all these matters are

[Sir Lancelot Graham.]

purely questions of fact arising between the employer and the employee and, without the slightest disrespect to the Civil Courts, I should like to say that I am sure it is the feeling of this House that these questions are best decided finally by the Controller. There is precedent for this proposal in section 19 of the Workmen's Compensation Act, which vests similar powers in a Commissioner. Sir, I move.

***Mr. S. G. Jog :** The amendment moved by my Honourable friend, Sir Lancelot Graham, comes to this. He said that he does not want to disrespect the rights of the Civil Courts, but I think he would have done better if he had not moved this amendment, because by not moving the amendment he would have respected the rights of the Civil Courts better than by moving his amendment. I find that this amendment is purely an afterthought and I cannot exactly point out at what moment this idea suggested itself to my learned friend, Sir Lancelot Graham. I think the whole House would give credit to Sir Lancelot Graham for not allowing anything to escape his notice, which is legally required to be done when framing all these legislative measures. If he had in his mind that the jurisdiction of the Civil Courts should be barred, he would have certainly made a provision when the Bill was originally framed and sent before the Select Committee. What he wants to do is this, that the Controller should have an uncontrolled power in all his decisions. It is a fundamental right that, in every case, whenever there is a cause of action, there is a remedy and every man has a right to pursue his remedy in a Civil Court. If the man is in no way satisfied with the decision or the finding of the executive authorities, he has got a right to bring a suit against the decision. My friend is probably aware that even suits are brought against the Secretary of State for actions in many other similar matters. I see no reason why, having appointed a Controller and having given him these wide powers which are more or less of an executive or administrative nature, the fundamental right of the people of bringing suits in regular Civil Courts should be taken away. I know, in many cases, if people are satisfied with the decision of the Controller, they will not have recourse to civil rights. That is an entirely different matter, but I for one see no reason why this right should be taken away by this amendment. I strongly oppose the amendment moved by my friend, Sir Lancelot Graham.

Mr. A. G. Clow : Sir, may I say just a word at this rather late hour ? I must, along with the Honourable Member in charge of the Bill, accept some responsibility for this amendment. The fact is that the matter was brought to the notice of the Select Committee by the Government of Assam and there was some talk upon it there. If I am in order in saying so, the Select Committee devoted a good deal of attention to the question of whether there should be an appeal from the Controller's orders and from the orders of other officers exercising his powers and, looking to the interests of labour, they came to the conclusion that provisions of that kind would be dangerous. In the course of the discussions we lost sight of the fact that it might be possible, I do not know if it is, to prevent the Controller repatriating emigrants by obtaining injunctions or by using the Civil Courts to restrain him in other ways ; and it was again in the interests of labour that this amendment was

**Speech not revised by the Honourable Member.*

proposed. Mr. Jog has suggested that where there is a cause of action there should be a remedy. I maintain that there is a very effective remedy in the Bill in the Controller's powers; and as Sir Lancelot Graham has explained, this clause follows directly the precedent of the Workmen's Compensation Act.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

"That after clause 39A of the Bill the following new clause be inserted :

Bar of jurisdiction '39B. No Civil Court shall have jurisdiction—
of Civil Courts.

(a) to deal with or decide any question which the Controller is, by or under
this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act'."

The motion was adopted.

New clause 39B was added to the Bill.

Clause 40 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Frank Noyce : Sir, I move :

"That the Bill, as amended, be passed."

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

"That the Bill, as amended, be passed."

Sir Lancelot Graham : Sir, I should like to move a purely formal amendment which is necessitated by the dropping out in Committee, and also, by amendments made in this House, by the addition also, of certain clauses and sub-clauses. The amendment which I desire to move, Sir, is :

"That in pursuance of the amendments made in the Bill, the clauses and sub-clauses of the Bill be re-numbered and re-lettered."

The motion was adopted.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

"That the Bill, as amended, be passed."

The motion was adopted. (Loud Applause.)

RESOLUTION *RE* RATIFICATION OF THE INTERNATIONAL CONVENTION *RE* NARCOTIC DRUGS.

The Honourable Sir Alan Parsons (Finance Member) : Sir, I move :

"That this Assembly recommends to the Governor General in Council that he do ratify the International Convention for limiting the manufacture and regulating the distribution of Narcotic Drugs."

Very few words of mine are needed, Mr. President, to commend this Resolution to the House, for India has always been to the fore in international action to prevent the misuse of narcotic drugs, often at considerable sacrifice to herself; and her representatives will, I am sure, welcome a further step in this direction which, I am glad to say, will involve no further sacrifice.

India is already a party to two International Conventions which aim at regulating the traffic in narcotic drugs—the International Opium Con-

[Sir Alan Parsons.]

vention of 1912 and the Dangerous Drugs Convention entered into at Geneva in 1925. It is because certain lacunae have been found in the provisions of the latter Convention that the question of ratifying this new Convention is now before the House. The Convention of 1925 imposed definite restrictions upon the transportation and sale of particular drugs but established no control over the quantity of raw opium or crude cocaine that might be used by factories in manufacturing drugs of all kinds ; and it soon became clear that its provisions could be evaded by the ingenuity of scientists in discovering new drugs, not covered by the Convention but which lent themselves to the formation of dangerous habits just as much as the drugs covered by the Convention. It is true that there was machinery for adding to the list of dangerous drugs covered by the Convention ; but the addition was a long and tedious process, and it was found that even when it had been completed and control had been taken over the particular drugs which were flooding the market, new and equally dangerous habit-forming drugs were invented. And so the struggle between the efforts of civilised nations to stamp out the drug habit and those organisations or individuals who wished to enrich themselves by pandering to the weakness of unfortunate drug addicts went on.

The conclusion reached was that to stop this loophole it was necessary to control the manufacture of all products of opium and the coca leaf, and discussions in the Fifth Committee of the Assembly in Geneva resulted for the first time in the history of the League in an agreement amongst the manufacturing countries as to the desirability of a limitation of manufacture by means of an International Conference which would determine the total amount of narcotic drugs required to meet the legitimate medical and scientific needs of the world. That Conference at which India was ably represented by Dr. Paranjpye took place in July, 1931, and the Convention now before the House was signed by him on behalf of India, but does not become binding until it has been ratified by both Houses of the Indian Legislature. I understand that a Resolution similar to that which I am moving today has already been accepted by the Council of State.

Briefly, the principal provisions of this Convention are as follows. Control under the provisions of the Geneva Convention of 1925 is extended to solutions of morphine and cocaine in an inert substance, whatever their cocaine or morphine content may be, and also to some extent to codeine and ethylmorphine. Crude morphine is held to be a manufactured drug, and the production of narcotic drugs is limited to the estimated requirements of Governments in respect of morphine, heroin and cocaine and their various salts and preparations and also to certain other drugs, and their ethers or salts. Countries adhering to the Convention are required to send their estimates to the Permanent Central Opium Board, and the estimates will be scrutinised by a new Supervisory Board. Provision is made for countries maintaining such reserve stocks of narcotic drugs as they may desire and also stocks for Government purposes. Heroin under the Convention can only be exported direct to a Government department and must be distributed by and on the responsibility of the importing Government. All seizures of heroin must either be destroyed or converted into a non-narcotic drug.

DRUGS.

Neither as a country producing raw opium nor as a country manufacturing opium alkaloids for internal consumption, or on a very limited scale for export, is there anything in the Convention which could conceivably be described as opposed to India's interests ; and as a country into which large quantities of manufactured drugs are known to be smuggled for the illicit traffic, anything which aims at killing that traffic by tightening up the control of manufacture in other countries can only be most advantageous to India. It is with full confidence that it will receive the most ready acceptance that I move this Resolution. (Loud Applause.)

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, this House has no other alternative but to accept the ratification of this Convention regarding the limitation of manufacture and distribution of narcotic drugs, but my complaint is as to the way that these Conventions are manufactured at the Geneva League of Nations and the way in which these are thrust upon us. Sir, India is too cultured, too religious, too just, too human to manufacture those drugs that are mentioned here. I am supposed to be a cultured man,—well, I have never heard of some of the articles mentioned here. (Laughter.) I will just read one or two names for the edification of the House : “ morphine ”, “ diacetylmorphine ”, “ cocaine ”, “ dihydrohydroxycodeinone ”, etc. (Laughter.) Sir, our country, with a civilisation extending back to the hoary past, never manufactured such drugs.

5 P.M. My friend, the Honourable Sir Alan Parsons, made the observation that the efforts of the civilized nations is to limit the manufacture of the narcotic drugs. Sir, India is civilised, but India does not manufacture such drugs. To-day we are asked to wash the sins of the Western nations. It is the Western manufacturers, both Europeans and Americans, that manufacture these drugs, namely, morphine, cocaine, etc., and they smuggle them into India on account of which India is losing to-day thousands of valuable human lives. To-day we find that the habit of taking cocaine is prevalent in big towns like Calcutta, Madras and Bombay. We also find that this cocaine taking habit is mostly confined to the rich families, aristocratic families, and yet to-day India is asked to ratify the Convention, simply because of the sins of Americans and Europeans. Then, my Honourable friend, the Finance Member, said that we must limit the manufacture of these drugs. Sir, it is these so-called civilized European and American nations that manufacture these drugs meet at the League of Nations at Geneva. I am glad to find that the Indian Delegation which was headed last year by my Honourable friend the Honourable Sir Brojendra Mitter was not a party to this. I believe some tiny official of the India Office represented India at Geneva and signed this Convention on behalf of India.

The Honourable Sir Alan Parsons : May I correct the Honourable Member ? It was signed by Dr. Paranjpye.

Mr. B. Das : Yes, it was signed by some tiny official of the India Office. I have the highest regard for Dr. Paranjpye, but when he became a Member of the India Office he was reduced to a cypher. (Laughter.) Then, Sir, my Honourable friend, the Finance Member, referred to Dr. Paranjpye's great doings at this Conference in the League of Nations. Sir, I know what position India occupies there, and if my Honourable friend will ever make inquiries into this matter, he will find that the European nations simply laugh at Indians. They say, India comes as a henchman of England, India has no voice of independence in the League of Nations and

[Mr. B. Das.]

India ought not to occupy the sovereign position and yet India happens to be an original member body of the League of Nations. Sir, I want to point out to the House the great doings of Dr. Paranjpye by referring the House to Article 30 of this Convention, which says :

“ The present Convention shall come into force ninety days after the Secretary-General of the League of Nations has received the ratifications or accessions of twenty-five Members of the League of Nations or non-member States, including any four of the following :

France, Germany, United Kingdom of Great Britain and Northern Ireland, Japan, Netherlands, Switzerland, Turkey, and the United States of America.”

Sir, where is India in this ? India is nowhere. It is these “ sinner ” countries, the European countries, including Japan, who manufacture large quantities of these narcotic drugs to the detriment of civilization, culture and against all principles of humanity. If four of these major countries and 21 non-member States have signed the Convention, then it will become ratified. Sir, Dr. Paranjpye has signed it, but if I was there I would have been ashamed to sign it. I am ashamed at the way in which India is being treated at the League of Nations. Sir, I do not wish to speak at great length. I do not want it to be regarded by the League of Nations or the International Conferences that India is not humane. India is more humane, more cultured, more civilised and more religious-minded than all the European nations put together. They are thrusting upon us a Convention for which the European nations are responsible only for the purpose of looting us and taking our gold. Sir, we have no other alternative but to sign it and accept it. I have made these observations not for the ears of the Government of India, but for the ears of the British Government. I have also made them with the object that the Secretary-General should take note of the fact that either India should be restored to its proper place as an equal partner, as a sovereign member body or it is better for us to get out of the League of Nations altogether.

The Honourable Sir Alan Parsons : Sir, at this late hour I do not think I need reply at any length to my Honourable friend, Mr. B. Das. His criticisms are far more directed against some of the European Governments or against the League of Nations than against the purposes for which I am asking the House to pass this Resolution. As I am not responsible for the various Governments mentioned or, for the League of Nations, and as I have just received a chit saying that the omission of India's name from Article 30 is a compliment.....

Mr. B. Das : She is a minor State and not a major State.

The Honourable Sir Alan Parsons : I think the omission was because she was known to have taken sufficient steps already to control the manufacture of narcotic drugs.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That this Assembly recommends to the Governor General in Council that he do ratify the International Convention for limiting the manufacture and regulating the distribution of Narcotic Drugs.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 26th September, 1932.

LEGISLATIVE ASSEMBLY.

Monday, 26th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock.
Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

STATEMENT *RE* COMMUNAL AWARD.

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Sir, will you allow me to request you to make a departure from the usual practice at question time as a very important statement has to be made by my Honourable colleague, the Home Member, and I am sure the House will agree with me when they hear the statement that this departure is well justified. Will you allow us to do so ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : What is the statement ?

The Honourable Sir C. P. Ramaswami Aiyar : The Honourable the Home Member desires to make a statement about the Communal Award and the decision of His Majesty's Government with regard to the Communal Award in relation to the depressed classes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : As a special case, the Chair will allow the statement to be made at this stage.

The Honourable Mr. H. G. Haig (Home Member) : In accordance with your permission, Sir, I will read to the House a Statement issued by His Majesty's Government this morning in connection with the agreement reached at Poona on Saturday afternoon. His Majesty's Government have learnt with great satisfaction that an agreement has been reached between the leaders of the Depressed Classes and of the rest of the Hindu community regarding the representation of the Depressed Classes in the new legislatures and certain other matters affecting their welfare. In place of the system of general constituencies combined with special Depressed Class constituencies contained in the Government Communal Award of 4th August last, the agreement provides for general constituencies within which seats are reserved for Depressed Classes subject to important conditions as to the manner in which the reserved seats are filled. The Government, in their Award, which was given in the absence of agreement between the communities, were solely concerned in relation to the Depressed Classes to provide adequate securities that the interests of these classes should be observed by the new legislatures. As representatives of the Depressed Classes and other Hindus acting together believe that the scheme now forwarded by them to His Majesty's Government is adequate for that purpose, the Government, in accordance with the procedure which they laid down in paragraph 4 of their Award, will recommend to Parliament.

in due course, the adoption of the clauses of the agreement dealing with representation in the provincial legislatures in place of the provisions in paragraph 9 of the Award. (Applause.)

It will be understood that the total number of general seats including those reserved for the Depressed Classes under the agreement will, in each Province, remain the same as the number of general seats *plus* the number of special Depressed Class seats provided for in His Majesty's Government's decision.

His Majesty's Government note that the agreement deals also with certain questions outside the scope of their award of August 4th. Clauses 8 and 9 deal with general points, the realisation of which will be likely to depend in the main on the actual working of the constitution. But His Majesty's Government take note of these clauses as a definite pledge of the intentions of the Caste Hindus towards the Depressed Classes.

There are two other points outside the scope of their Award : (1) The agreement contemplates that the franchise for the Depressed Classes should be that recommended by the Franchise (Lord Lothian's) Committee. It is obvious that the level of the franchise for the Depressed Classes (and indeed for Hindus generally) must be determined at the same time as that for other communities is being settled, and the whole subject is under consideration by His Majesty's Government. (2) The agreement also provides for a particular method of electing Depressed Class representatives for the Legislature at the Centre. This, again, is a subject outside the terms of this Award which is under investigation as part of the whole scheme for election for the legislature at the Centre, and no piecemeal conclusion can be reached. What has been said on these two points should not be regarded as implying that His Majesty's Government are against what is proposed in the agreement, but that these questions are still under consideration. To prevent misunderstanding, it may be explained that the Government regard the figure 18 per cent. for the percentage of British India general seats at the Centre to be reserved for the Depressed Classes as a matter for settlement between them and other Hindus. (Applause.)

MEMBER SWORN.

The Honourable Sir Brojendra Mitter, Kt., K.C.S.I., (Law Member).

QUESTIONS AND ANSWERS.

GRANT OF EXTENSIONS TO OFFICIALS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

767. *Mr. P. G. Reddi : Will Government be pleased to state whether they have retired officials of 55 years and over or those that have completed 30 years of service ? If not, why not ? Is it a fact that extensions of service continue to be granted in the Posts and Telegraphs Department ? If so, why ?

Mr. T. Ryan : The retirement of such officials is being steadily carried out according to requirements, but Government do not consider that the entire suspension of the ordinary rules governing the grant of

extension of service to officials who have reached the age of 55, is either necessary or desirable ; and, in suitable cases, extensions of service are allowed in the Posts and Telegraphs Department in the interests of efficiency.

RECRUITMENT OF POSTMEN IN THE PROPOSED " B. " DIVISION CADRE.

768. ***Mr. P. G. Reddi :** (a) Are Government prepared to consider the desirability of employing as many efficient and suitable postmen as have passed a prescribed test in the proposed " B " Division cadre of the Posts and Telegraphs Department in preference to raw outsiders ?

(b) Do Government propose to issue instructions to this effect and stop outside recruitment of outsiders by the Divisional Officers ?

Mr. T. Ryan : (a) and (b). Existing orders already provide for the appointment of qualified men of the postman class to every second vacancy in the Lower Division clerical cadre, while the remaining posts are to be offered to outsiders who have already been accepted as candidates for employment in the department.

TRIENNIAL CHANGE OF PERSONAL CLERKS AND HEAD CLERKS IN THE OFFICES OF THE SUPERINTENDENTS OF POST OFFICES.

769. ***Mr. P. G. Reddi :** Have Government made it clear to all Superintendents of Post Offices that a change of personal clerks and head clerks in their offices every three years is quite essential and that they should not nominate or recommend anyone to be retained in that office on the score of long and continued service therein ? If not, do they propose to do so now ?

Mr. T. Ryan : Existing orders already lay down that Head Clerks in the offices of Superintendents of Post Offices are not to remain in the same division for more than three years ; but, owing to the existing financial conditions, such orders have been held in suspense for the time being except where transfers are specially desirable. Government do not consider any time-limit necessary in the case of other clerks.

ABOLITION OF THE TRAVANCORE POSTAL DIVISION.

770. ***Mr. P. G. Reddi :** Is it a fact that the Travancore Government have their own State Post Offices in addition to those of Government and that the work of British Post Offices is in consequence comparatively insignificant ? If so, are Government prepared to consider the advisability of abolishing the Travancore Postal Division and attaching one-half comprising the northern portion to the present Tinnevely Division and the other half comprising the southern portion to the present Malabar Division ?

Mr. T. Ryan : It is a fact that the Travancore Government have their own State post offices, but the Travancore Postal Division, as at present constituted, comprises not only the Indian States of Travancore and Cochin, but also a portion of the Walavanad Taluk of the Malabar District. Although the work in that Division is not, as the Honourable

Member states, comparatively insignificant, it is possible that some re-arrangement of the divisional charges is feasible. A copy of the Honourable Member's question is being sent to the Postmaster General, Madras, for consideration of his suggestion.

Mr. Gaya Prasad Singh : Are Government aware that Travancore is a very progressive and enlightened State and nothing should be done to curtail the postal facilities in that State ?

Mr. T. Ryan : I do not think that any action likely to be taken as a result of consideration of this suggestion will interfere with the development of postal facilities in Travancore.

REMOVAL OF THE OFFICE OF THE CHINGALPUT POSTAL DIVISION FROM MADRAS TO CHINGALPUT.

771. ***Mr. P. G. Reddi :** Is it a fact that on grounds of economy, convenience and considerable saving of cost, the late Mr. Malan, I.C.S., Post Master General, Madras, ordered the removal of Chingalput Postal Division Office from Madras to Chingalput, and that these orders were passed so long ago as over three years and that they have not been carried out ? Are Government prepared to direct the carrying out of these orders forthwith ? If not, why not ?

Mr. T. Ryan : Government have no information. The location of the Headquarters of a Postal Division is a matter within the competence of the head of the Postal Circle and a copy of the question is being sent to the Postmaster General, Madras.

REPRESENTATIONS *re* PROTECTION TO THE GLASS INDUSTRY.

772. ***Lala Rameshwar Prasad Bagla :** (a) Will Government please state how many representations they have received since 1927 on the question of protection to the glass industry, as also the names of the bodies that made the said representations ?

(b) Will Government please inform the house what action they took on each of these representations and when ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) In 1926, the following six concerns addressed a joint representation to the Government of India asking for protection to the Indian glass industry :

1. The Ogale Glass Works, Limited.
2. The Paisa Fund Glass Works.
3. The United Provinces Glass Works, Limited.
4. The Ganga Glass Works, Limited.
5. The Bengal Glass Works, Limited. and
6. The Onama Glass Works.

Later, the Maharashtra and the United Provinces Chambers of Commerce, the Indian Glass Manufacturers' Association and the Glass and Bangles Industrial Association also addressed the Government of India on the subject.

(b) The representations were considered and the applicants informed that the Government of India were not satisfied that a *prima facie* case had been made out for a reference to the Tariff Board. In August, 1929

however, the United Provinces Glass Works represented that they had started the manufacture of sheet glass and asked for protection to that industry. As the result of certain further enquiries, there appeared to the Government of India to be a *prima facie* case for referring the industry to the Tariff Board and it was then decided to give an opportunity also to the other branches of the glass industry of proving their case before the Board. The reference was made in the Commerce Department Resolution No. 458-T. (2), dated the 20th October, 1931. The Resolution was published in the Gazette of India of the 24th October, 1931, and a copy of it is in the Library.

Mr. Lalchand Navalrai : Will the Honourable Member please state if the glass manufacturers did prove their case before the Tariff Board ?

The Honourable Sir C. P. Ramaswami Aiyar : I did not quite follow the Honourable Member, but I may say that the report of the Tariff Board on this investigation is before Government now in the Commerce Department and it is being considered in great detail.

RECOMMENDATIONS OF THE TARIFF BOARD IN RESPECT OF GLASS INDUSTRY.

773. ***Lala Rameshwar Prasad Bagla :** (a) Will Government please state briefly the findings of the Tariff Board as a result of their recent enquiry into the condition of the glass industry and also their recommendations ?

(b) Will Government please state if they have given effect to any of the recommendations of the Tariff Board in this connection ?

(c) If the reply to part (b) be in the negative, will Government please state the reasons ?

The Honourable Sir C. P. Ramaswami Aiyar : With your permission, Sir, I propose to reply to questions Nos. 773 and 774 together.

The attention of the Honourable Member is invited to the reply given by me on the 16th September, 1932, to question No. 310 by Bhai Parma Nand.

RECOMMENDATIONS OF THE TARIFF BOARD IN RESPECT OF GLASS INDUSTRY.

†774. ***Lala Rameshwar Prasad Bagla :** (a) Will Government please state when they propose to give effect to the main recommendations of the Tariff Board in regard to giving protection to the glass industry ?

(b) Are Government aware that the glass industry is in a very miserable plight these days and, if protection is not forthcoming at once, this important industry of the country will shortly collapse ?

(c) If the reply to part (b) be in the affirmative, are Government prepared to give an assurance to the House that necessary action to give effect to the recommendations of the Tariff Board will be taken at an early date ?

UNEMPLOYMENT PROBLEM IN INDIA.

775. ***Lala Rameshwar Prasad Bagla :** (a) Are Government aware that there is widespread unemployment throughout India ?

(b) Will Government please state what steps, if any, they have so far taken in order to mitigate the unemployment evil ?

†For answer to this question, see answer to question No. 773.

(c) If the reply to part (b) be in the negative, are Government prepared to consider the desirability of instituting an early inquiry into the question ?

(d) Will Government please state whether they prepare any statement which may at a glance show the total number of persons, both literate and illiterate, who are unemployed ?

(e) Are Government aware that almost all the European countries prepare such statements with the help of the Employment Exchanges established for this and similar purposes ?

(f) If the reply to part (d) be in the negative, do Government propose to consider the desirability of collecting the above information ?

Mr. A. G. Clow : (a) There is a considerable amount of unemployment among the educated middle classes, and there is some unemployment among certain sections of the industrial population.

(b) The matter is primarily one which concerns Local Governments and, as the Honourable Member is probably aware, some of them have devoted considerable attention to it in recent years, unemployment committees being appointed in at least four provinces. The question was also examined by the Whitley Commission and I would invite the Honourable Member's attention to those parts of their Report which deal with this subject.

(c) Does not arise.

(d) and (f). Some figures of educated unemployment have been collected in connection with the 1931 census. Government do not propose to collect further figures.

(e) Most of the leading European countries publish statistics of unemployment, but, I believe, that these statistics are not based exclusively on figures supplied by official employment agencies.

Mr. B. Das : Did the Whitley Commission go into the question of unemployment among the educated classes or only among the working classes ?

Mr. A. G. Clow : The Whitley Commission dealt with the question of industrial labour ; they did not deal with the question of educated unemployment except, I think, very incidentally.

Dr. Ziauddin Ahmad : Are Government aware that there is more unemployment among the lower middle classes than among labour ?

Mr. A. G. Clow : In proportion to their numbers I think that is the case.

Dr. Ziauddin Ahmad : Are Government going to start giving relief to these lower middle classes in the same manner as they are giving relief to labour ?

Mr. Lalchand Navalrai : Have Government considered this question ? If so, have they come to any decision as to the methods for meeting unemployment ?

Mr. A. G. Clow : I would invite the Honourable Member's attention to part (b) of the answer. The matter is primarily one which concerns the Local Governments.

Mr. Lalchand Navalrai : Have the Local Governments been asked to adopt certain measures to meet this unemployment ?

Mr. A. G. Clow : Following a Resolution of this House some years ago, the attention of Local Governments was drawn to the question of middle class unemployment ; and I think it was after that and, partly in consequence of it, that some of them appointed committees to examine the subject.

Mr. Lalchand Navalrai : As it was a long time ago, are Government going to remind them now that this unemployment question is troubling the people very much ?

Mr. A. G. Clow : I take it that the Local Governments are examining the recommendations of the Whitley Commission which concern them. They include certain recommendations on unemployment.

Mr. Lalchand Navalrai : Is there any objection to the Government of India reminding them of it ?

Mr. A. G. Clow : I have no doubt the Local Governments receive copies of the debates and the questions in this House which will serve, if necessary, to remind them.

FORMATION OF THE ALL-INDIA MUSLIM RAILWAYMEN'S ASSOCIATION.

776. ***Mr. M. Maswood Ahmad :** Are Government aware that the Muslim Railway employees have formed a Union called the All-India Muslim Railwaymen's Association and established its branches at the Headquarters of the different railways with sub-divisions at divisional centres ?

Mr. P. R. Rau : Government are aware of the formation of a Union called the All-India Railway Muslim Employees' Association with branches on certain railways.

VIEWS OF THE ALL-INDIA RAILWAYMEN'S FEDERATION IN CONNECTION WITH THE ECONOMY CAMPAIGN.

777. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to lay on the table copies of the correspondence that passed between the Railway Board and the All-India Railwaymen's Federation from 1st January, 1931, to 31st August, 1932, in connection with the economy campaign together with copies of any memorials addressed by the All-India Railwaymen's Federation to the Government of India in the Department of Industries and Labour or to the Railway Board or to the Home Department in connection therewith ?

(b) Will Government be pleased to state if they are prepared to give the Muslim employees of the Railways a chance to express their views on the suggestions made by the All-India Railwaymen's Federation regarding the economy campaign before Government pass any orders thereon ?

Mr. P. R. Rau : (a) Copies of important correspondence which has passed between the Railway Board and the All-India Railwaymen's

Federation since January, 1931, on staff retrenchment and reports of meetings held with them to discuss this subject have been placed in the Library of the House. No memorial was addressed by the Federation to the Government of India in the Industries and Labour and Home Departments in connection with the economy campaign.

(b) Government have already passed orders on the suggestions made by the Federation.

Mr. M. Maswood Ahmad : Are Government prepared to give the same facilities to Muslim employees as are given to the Hindu employees on the Railways ?

Mr. P. R. Rau : As far as I am aware, no special facilities are given to Hindu employees.

MUSLIM PERCENTAGE IN THE INDIAN AUDIT AND ACCOUNTS SERVICE.

778. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state if they are aware that the Muslim percentage in the Indian Audit and Accounts Service is very low ?

(b) Will Government be pleased to state whether it is a fact that this is the only service which has been Indianised thoroughly, and what particular steps Government have taken in 1932 for the adjustment of communal inequalities in the service ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) Yes.

(b) The examination for recruitment for the Indian Audit and Accounts Service has been stopped temporarily. There is to be no recruitment this year and the question of adjustment of communal inequalities does not, therefore, arise.

MUSLIM ASSISTANT ACCOUNTS OFFICERS AND ACCOUNTANTS IN ACCOUNTS AND AUDIT OFFICES.

779. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state if it is a fact that Assistant Accounts Officers in various Accounts and Audit Offices in India are appointed by means of promotion from the non-gazetted supervising staff ?

(b) Will Government be pleased to state the total number of the Assistant Accounts Officers all over India and the number of the Mussalman together with their percentage in relation to the total number of appointments ?

(c) Will Government be pleased to state the total number of the posts of Accountants in all the Accounts and Audit Offices in India and the number of Muslim Accountants ?

(d) Will Government be pleased to state what steps were taken to improve the percentage of Muslims in the posts of (1) Assistant Accounts Officers, and (2) Accountants ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) Yes.

(b) and (c). In the Accounts and Audit Offices under the Auditor General, there are at present 84 Assistant Accounts Officers and 572 Sub-ordinate Accounts Service Accountants. The number of Muslims in the former grade is 2 and in the latter 22.

(d) I would refer the Honourable Member to the reply to parts (c) and (d) of question No. 887 asked by Shaikh Sadiq Hasan on the 9th March, 1931, a copy of which is in the Library of the House, and the reply which Sir Alan Parsons gave on the 20th instant to part (b) of Sardar Sant Singh's question No. 467.

RECRUITMENT OF MUSLIMS IN THE INDIAN AUDIT AND ACCOUNTS SERVICE.

780. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state if it is a fact that the competitive examination for the Indian Audit and Accounts Service has been held in abeyance for several years ?

(b) Will Government be pleased to state whether, in the absence of any examination for appointments to the Indian Accounts and Audit Service, subsequent vacancies that arise in the service will only be filled up through promotions from among the Assistant Accounts Officers ?

(c) Will Government be pleased to lay on the table a list of the Assistant Accounts Officers arranged according to the different communities ?

(d) If the reply to part (b) above be in the affirmative, will Government be pleased to state if they are aware that the holding in abeyance of the examination has made it impossible for the members of the Muslim community to get appointments in the Indian Audit and Accounts Service for an indefinite period ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) The examination was last held in December, 1930.

(b) No. A fixed proportion of the total cadre of the Service consists of promoted subordinates and promotions can, therefore, be made only when there are vacancies among the promoted subordinates in the Service. Promotions are made on merit, and not only from the rank of Assistant Accounts Officer.

(c) In view of the first reply referred to in my reply to part (d) of the preceding question, I do not consider that any useful purpose would be served by collecting this information.

(d) Does not arise.

NUMBER OF QUALIFIED CANDIDATES ON THE WAITING LIST MAINTAINED BY THE PUBLIC SERVICE COMMISSION.

781. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state the number of the candidates on the waiting list as it stood on 31st August, 1932, who have passed the examination prescribed by the Public Service Commission for appointment as clerks in the Secretariat offices ?

(b) Will Government be pleased to state whether the Public Service Commission, or its Secretary or its other officials recommend candidates for appointment as clerks even if there is no passed candidate on their waiting list ? If so, what is the criterion for recommending any unpassed candidate for appointment as a clerk ?

(c) Will Government be pleased to state whether their different departments have power to make appointments in their clerical staff from among the candidates who possess the minimum academic qualifications

required for the purpose, in case the Public Service Commission has no duly qualified candidates on the waiting list to recommend ?

The Honourable Mr. H. G. Haig : (a) Under the present system of recruitment, the Public Service Commission hold competitive examinations for the filling of such vacancies as may occur during specified periods. The Commission fix a minimum qualifying mark, and any candidate who obtains less than that mark is not offered a post. The number of candidates who competed at the examination held in 1931 and obtained a minimum mark or more, but have not been offered posts, is 17. These candidates could not be provided for as the period, during which vacancies were to be filled on the results of that examination, has now expired.

(b) No.

(c) Presumably the Honourable Member refers to the filling of temporary and officiating vacancies. In these cases, the Departments of the Government of India have discretion.

APPOINTMENT OF THE MEMBERS OF THE MINORITY COMMUNITIES IN
GOVERNMENT DEPARTMENTS.

782. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state whether, in view of the policy that 33 per cent. of the appointments should be filled up from the members of the minority communities, the Public Service Commission recommend on their own accord 33 per cent. of the candidates from the minority communities for appointment or whether the Departments of Government require the Public Service Commission to make their recommendations for appointment of members of the minority communities according to this percentage ?

(b) If either of the two alternative procedures mentioned in part (a) above is not adopted, will Government be pleased to state how they insure the appointment of the members of the minority communities to 1-3rd of the total vacancies in their Departments ?

(c) Will Government be pleased to state whether instructions contained in Home Department memorandum No. F. 176|25-Est., dated 5th February, 1926, and in their memorandum No. F. 21|2|30-Est., dated 22nd March, 1930, have been notified to the Public Service Commission for compliance ?

The Honourable Mr. H. G. Haig : (a) The orders about the reservation of one-third of vacancies for the redress of communal inequalities apply only to vacancies which are to be filled by direct recruitment, not to those to be filled by promotion. It rests with the Departments and offices concerned to intimate to the Public Service Commission from which communities they want recruits for vacancies of the first category.

(b) Does not arise.

(c) Yes, in so far as their own office staff is concerned. In regard to the staffs of other Departments, the responsibility rests with the Head of the Department concerned.

ALLEGED INJUSTICE TO RETRENCHED MUSLIMS IN THE DELHI DIVISION OF THE NORTH WESTERN RAILWAY.

783. ***Mr. M. Maswood Ahmad :** (a) Will Government be pleased to state how many men (subordinate and inferior) from amongst those retrenched and demoted in connection with the economy campaign prior to 31st July, 1932, in the Delhi Division of the North Western Railway have been reappointed up to 1st September, 1932 ?

(b) How many of them are Hindus, Muslims, Sikhs, Anglo-Indians, Europeans and others ?

(c) With reference to the reply given by Mr. Hayman on the floor of the House, will Government please state if it is a fact that the Agent, North Western Railway, Lahore, had issued instructions to Divisional Superintendents to recall Muslims until their proportion comes to what it was before they were retrenched in order to remove the injustice done to them ?

(d) Is it a fact that the Divisional Superintendents are not empowered to reappoint any retrenched hand, but they are required to place their demands upon the Employment Officer, Moghalpura, who alone complies with their demands ?

(e) Is it a fact that the Junior Assistant Personnel in charge of the Central Labour Exchange was furnished with copies of the instructions mentioned in part (c) above ?

(f) Is it a fact that the Employment Officer, Moghalpura (Junior Assistant Personnel) sends retrenched hands in response to several demands made upon him in the order of seniority, and not as desired by the Agent, North Western Railway, Lahore, in his instructions mentioned in part (c) above ?

(g) Will Government please state whether the proportion of the Muslims in the Delhi Division had reached to what it was before the retrenchment campaign came in, before the non-Muslims were reappointed ? If not, was it not in disregard of their instructions and, if so, do Government propose to take disciplinary action against the subordinates concerned ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

GRANT OF HOLIDAYS TO MUSLIM RAILWAY EMPLOYEES.

784. ***Mr. M. Maswood Ahmad :** (a) Are Government aware that an undertaking regarding the grant of holidays to Muslim railway employees was given by the Honourable Sir George Rainy, then Member for Commerce and Railways, when he met a deputation of the Muslim Members of the Legislative Assembly and the Council of State on the 18th September, 1931, and that Mr. P. B. Chandwani issued letters to the Agents of the State-managed Railways after eleven months (that is, on the 18th August, 1932) wherein he remarked that the Railway Board were not in favour of an increase in the number of holidays and that they preferred to leave the matter in the hands of the Agents ?

(b) Do Government realise that the portion of Mr. Chandwani's letter mentioned above (namely, R. B. No. 3966-E. of 18th August, 1932) that

“ the Railway Board are not in favour of an increase in the number of holidays ” nullifies the undertaking given by the Honourable Member for Commerce and Railways referred to in part (a) above ?

(c) Do Government propose to withdraw the portion of the above letter quoted in part (b) above and leave the matter entirely in the hands of the Agents to use their discretion in the matter of Muslim holidays in the light of the undertaking given by the Honourable Member referred to in parts (a) and (b) above ?

(d) Will Government be pleased to lay on the table copies of the Agent's letters No. 358-E.|O., dated 3rd May, 1932, No. A.E.-1174|8, dated 5th April, 1932, No. 270-E.|1, dated 24th March, 1932, and No. 21239-R.|77, dated 5th April, 1932, referred to in the Railway Board's letter No. 3966-F of 18th August, 1932 ?

Mr. P. R. Rau : (a) Yes. At the same time, it was clearly laid down that Agents should take into consideration the practice followed by Local Government.

(b) No.

(c) No.

(d) Government regret they are not prepared to place this correspondence on the table, as they do not consider any public purpose will be served by it.

Dr. Ziauddin Ahmad : May I ask, whether this fact that they should follow the practice of the Local Governments forms part of the letter addressed by the Director of Traffic to the Agents ?

Mr. P. R. Rau : In the letter it is stated that the Railway Board desire that Agents should take into consideration the practice followed by Local Governments.

Mr. M. Maswood Ahmad : The sentence says that the Railway Board are not in favour of an increase in the number of holidays : does it not nullify the undertaking and does it leave the departments concerned free to exercise their discretion and to see the Local Government's circulars in this matter ?

Mr. P. R. Rau : No : the Government are convinced that at present the total number of holidays granted to railway employees is not at any rate too little.

COMMUNAL COMPOSITION OF THE INSPECTORS OF VARIOUS BRANCHES ON THE EAST INDIAN RAILWAY.

785. ***Khan Bahadur Haji Wajihuddin :** (a) Will Government be pleased to state how many inspectors of various branches are employed on the East Indian Railway ?

(b) How many of them are Anglo-Indians, Europeans, Hindus, Muhammadans, Christians and Sikhs ?

Mr. P. R. Rau : I have called for certain information regarding part (a) of the question and will lay a reply on the table, in due course. As regards part (b), Government regret they are unable to supplement the information given in their annual administration reports by details about the communal composition of individual offices or classes of subordinate staff employed in a Railway.

CHECKING OF THE ACCOUNTS OF THE SHAHDARA-SAHARANPUR LIGHT RAILWAY BY INSPECTORS OF STATION ACCOUNTS OF THE EAST INDIAN RAILWAY.

786. *Khan Bahadur Haji Wajihuddin : (a) Will Government be pleased to state if it is a fact that inspectors of station accounts on the East Indian Railway are utilised to check the accounts of the Shahdara-Saharanpur Light Railway which is under Company management ?

(b) If so, why ?

(c) If they are surplus to be spared for other railways, have Government considered the question of retrenching their posts ?

(d) Is it a fact that the Chief Accounts Officer desired to have sanction for a few more inspectors of station accounts, as the present number was considered inadequate to cope with the work ?

(e) If the reply to part (d) be in the affirmative, why are they utilised on another railway ?

(f) Is it a fact that this arrangement with the Shahdara-Saharanpur Light Railway was with the East Indian Railway under Company management and that the Government lease with the Shahdara-Saharanpur Light Railway expired in 1928 when the East Indian Railway was taken over by the State ? If so, why is this arrangement still carried on ? Was the sanction of the Railway Board taken on the point ?

Mr. P. R. Rau : (a) Yes.

(b), (c), and (e). Under the terms of an agreement in force for the last 28 years between the East Indian Railway and the Shahdara-Saharanpur Light Railway, the East Indian Railway audit the Traffic Accounts of the Shahdara-Saharanpur Light Railway and receive a half yearly payment for performing the work.

(d) Yes, but owing to the subsequent reorganisation of the work, the request was withdrawn.

(f) I am afraid, I do not understand this question. Government took over the liabilities of the East Indian Railway on purchase.

Dr. Ziauddin Ahmad : In view of the fact that this railway is directly under a Local Government and not the Government of India, is it or is it not desirable that we should charge for this inspection work ?

Mr. P. R. Rau : A charge is being made ; we are receiving a half yearly payment for performing the work.

PAY OF TELEGRAPH INSPECTORS OF THE AMALGAMATED EAST INDIAN AND OUDH AND ROHILKUND RAILWAYS.

787. *Khan Bahadur Haji Wajihuddin : (a) Will Government be pleased to state what was the pay of Telegraph Inspectors on the East Indian Railway under Company and the Oudh and Rohilkund Railway under State and after amalgamation of both the Railways ?

(b) Is it a fact that after amalgamation the pay of the East Indian Railway Inspector was raised and his jurisdiction curtailed due to the Jubhulpore and Delhi-Umballa-Kalka sections being taken away from the East Indian Railway ?

(c) What is the total number of such inspectors on the East Indian Railway now and what is the average length of their jurisdiction ?

(d) Will Government please state whether the work of telegraph check is entrusted to the Chief Operating Superintendent's Office on the East Indian Railway ? Is the system prevalent on other State Railways as well ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table, in due course.

WORKING OF THE MOODY-WARD SYSTEM AND THE NUMBER OF PASSENGERS DETECTED TRAVELLING WITHOUT TICKETS.

788. ***Khan Bahadur Haji Wajihuddin :** (a) With reference to the reply to starred question No. 1114 (b) in the Legislative Assembly, dated 2nd October, 1931, will Government be pleased to state if the Moody-Ward system has acted " as a deterrent to passengers who might otherwise entrain without proper tickets " ?

(b) If the reply to above be in the affirmative, will Government be pleased to state the total number of passengers detected undertaking illicit journeys from 1st June, 1931, to 31st May, 1932 ?

Mr. P. R. Rau : (a) Yes. The East Indian Railway Administration has reported that the system is yielding satisfactory results.

(b) The total number of cases of all kinds detected was 358,256.

AMOUNT RECOVERED FROM PASSENGERS BY TRAVELLING TICKET EXAMINERS.

789. ***Khan Bahadur Haji Wajihuddin :** (a) Will Government be pleased to state the total amount recovered by Travelling Ticket Examiners on the East Indian Railway from 1st June, 1931, to 31st May, 1932, analysing under the following heads :

(Cash only.)

- (i) amount of excess fare ;
- (ii) amount of penalty ;
- (iii) amount of unbooked or partially booked luggage ;
- (iv) amount of tickets issued for want of time without penalty ;
- (v) amount of extension of journey without penalty ;
- (vi) amount of unbooked livestock and cycles ;
- (vii) total number of cases detected ;
- (viii) average income per Travelling Ticket Examiner ;
- (ix) number of cases and amount involved in respect of passengers made over on journals for the recovery of dues ;
- (x) total amount recovered by staff or courts in respect of the journals issued and the total amount written off ; and
- (xi) total number of cases prosecuted under sections 112, 114 and 116, Railway Act, and 417, 419, 420, Indian Penal Code ?

(b) Will Government be pleased to give the same information as above in respect of Travelling Ticket Inspectors for 1927-28 ?

Mr. P. R. Rau : (a), (i) to (vi). Figures under each of these heads are not separately recorded. The total amount actually realised was Rs. 4,65,631-14-0.

(vi) I have already stated that the total number of cases of all kinds detected was 358,256.

(viii) The information is not available and to compile it, with reference to the actual number of days each Travelling Ticket Examiner worked during the year, would involve a considerable amount of labour.

(ix) and (x). The amount due for recovery in cases made over for prosecution was Rs. 1,24,285-9-3. I am enquiring whether the other details asked for are readily available and will lay them on the table of the House, if they are.

(xi) The total number of cases made over for prosecution was 55,432, but details are not available as to the section of the Act or Code under which action was taken.

(b) The only information now available for 1927-28 is that the amount recovered on account of passengers found travelling without proper tickets, etc., was Rs 4,17,683.

Dr. Ziauddin Ahmad : Do I understand correctly that the T. T. Is. in 1927-28 collected more money than the T. T. Es. this year ?

Mr. P. R. Rau : No ; the total amount recovered in 1927-28 was Rs. 4,17,683. Between 1st June, 1931, and 31st May, 1932, it was Rs. 4,65,631 ; but this comparison will not lead to any results.

Dr. Ziauddin Ahmad : That is for us to do.

REFUNDS IN RESPECT OF EXCESS FARES RECOVERED.

790. ***Khan Bahadur Haji Wajihuddin :** With reference to questions Nos. 389 of 16th February, 1932 and 852 (a) of 18th March, 1932, in the Legislative Assembly, will Government be pleased to state if Messrs. Moody and Ward, Officers of the Crew Enquiry Committee, condemned the accounts control on the ground that " the Accounts department would be much stricter than other departments in refusing to forego excess fare and penalty charges " ? Is it a fact that such refunds are not granted by the Accounts Department, but by the Chief Commercial Manager (Claims) ?

Mr. P. R. Rau : I presume the first part of the Honourable Member's question has reference to paragraph 62 of the Moody-Ward Committee's Report in which reasons were given against what was believed to be the probable point of view of the Accounts Department. The reply to the second part is in the affirmative.

CONTROL OF TRAVELLING TICKET EXAMINERS BY THE SUPERINTENDENT, STAFF, ON THE EAST INDIAN RAILWAY.

791. ***Khan Bahadur Haji Wajihuddin :** Will Government be pleased to state if it is a fact that in some Divisions of the East Indian Railway the Travelling Ticket Examiners are kept under the Superintendent, Staff, and that as per paragraph 67 of Messrs. Moody and Ward's report, the Superintendent, Commercial, should be in control of them ? Was the latter approved by the Agent, East Indian Railway, and sanctioned by the Railway Board ?

Mr. P. R. Rau : With your permission, Sir, I propose to reply to questions Nos. 791, 793, 795, 798 and 800 to 807 together. I have called for certain information and will lay a reply on the table, in due course.

SYSTEM OF TICKET CHECKING ON THE EAST INDIAN RAILWAY.

792. ***Khan Bahadur Haji Wajihuddin :** With reference to question No. 239 in the Legislative Assembly, dated 12th February, 1932, will Government be pleased to state :

- (a) if it is a fact that in some Divisions, contrary to the recommendations of Messrs. Moody and Ward, no regular Travelling Ticket Examiners run with mail and express trains which are checked by flying batches at certain points only ;
- (b) whether the system recommended by Messrs. Moody and Ward which was approved of by the Agent and sanctioned by the Railway Board last year is in operation on the East Indian Railway or is it some other system ;
- (c) whether sanction was obtained from the Railway Board to abandon the Moody-Ward recommendations in respect of mail and express train working by Travelling Ticket Examiners and in respect of control by other than the Superintendent, Commercial ?

Mr. P. R. Rau : (a) The East Indian Railway Administration reports that Travelling Ticket Examiners have been withdrawn from trains that have few halts and the number of flying squads increased.

(b) The system recommended by the Moody-Ward Committee is in operation on the East Indian Railway.

(c) No, so long as the principles of this system are generally followed. Government must leave it to the Railway Administration to decide in actual practice whether any modification of the general arrangement is called for on certain sections, by the exigencies of local conditions.

Dr. Ziauddin Ahmad : Does it not follow from (a) particularly that the different Superintendents adopt different practice ?

Mr. P. R. Rau : No ; it would be the decision of the Agent of the Railway.

Dr. Ziauddin Ahmad : And different Agents follow different practice ?

Mr. P. R. Rau : That is so.

Dr. Ziauddin Ahmad : Is it not contrary to the reply given by the Honourable Member a few days ago when I said that Agents are trying fresh experiments everywhere and here is the proof that every Agent has got his own practice ?

Mr. P. R. Rau : I told the Honourable Member the other day to the best of my recollection that Divisional Superintendents were not authorised to depart from the principles laid down by the Agents.

Dr. Ziauddin Ahmad : Is it not a fact that the Divisional Superintendent of Allahabad is the only person who carried on examinations in a

manner that the same question papers were set at different centres at different times ?

Mr. P. B. Rau : I am not aware of that ; if my Honourable friend wants me to inquire into the matter, I suggest his putting a question on the paper.

Dr. Ziauddin Ahmad : I put this question last Session and I thought that six months were quite sufficient to make an inquiry.

REPORTS OF CHIEF INSPECTORS OF TRAVELLING TICKET EXAMINERS ON THE TICKET CHECKING SYSTEM.

†793. ***Khan Bahadur Haji Wajihuddin :** Will Government be pleased to state if it is a fact that some time back the Chief Inspectors of Travelling Ticket Examiners of all Divisions were asked to submit a report on the working of the present system and that the majority of them recommended that it should be under Accounts control but, in forwarding their report to the higher authorities, this particular recommendation was eliminated by the authorities interested ? Have the Railway Board compared the original reports of the Chief Inspectors with those forwarded later on ?

DESIRABILITY OF DIVIDED CONTROL OVER COLLECTIONS AND CHECKING OF RAILWAY TICKETS.

794. ***Khan Bahadur Haji Wajihuddin :** (a) Will Government be pleased to state what the advantages are of Operating control over Accounts control so far as work and utility of the system are concerned ?

(b) Is it a fact that Messrs. Moody and Ward, in paragraph 69 on page 40 of their Report, condemned collection of tickets and check on tickets by the same staff ?

(c) Is it a fact that Travelling Ticket Examiners are often utilised as Ticket Collectors specially during *Mela* time and specially those who are on the relieving list ?

Mr. P. B. Rau : (a) and (b) I would refer the Honourable Member to paragraph 47 of the Proceedings of the Public Accounts Committee on the 27th November, 1931, on page 30 of the Report of the Committee on the Accounts of 1929-30.

(c) Government have no information, but, in times of pressure, staff ordinarily employed on certain duties are always utilised elsewhere, where the need for their services is considered temporarily to be greater.

TOTAL EXPENDITURE ON TRAVELLING TICKET INSPECTORS, HEAD TICKET COLLECTORS, ETC.

†795. ***Khan Bahadur Haji Wajihuddin :** Will Government be pleased to state :

(a) the total expenditure incurred on Travelling Ticket Inspectors' establishment during 1927-28 in respect of :

(i) pay and allowance,

(ii) uniforms, stationery, stores, etc.,

- (iii) office staff including peons, and
- (iv) total strength of staff of each category ?
- (b) the same particulars as asked for in part (a) above in respect of Ticket Collectors, Head Ticket Collectors and Lady Ticket Collectors for 1925-26 ;
- (c) the same particulars as asked for in part (a) above in respect of Travelling Ticket Examiners and their Inspectors from 1st June, 1931, to 31st May, 1932 ;
- (d) the same particulars as asked for in part (a) above in respect of Ticket Collectors, Head Ticket Collectors and Lady Ticket Collectors from 1st June, 1931, to 31st May, 1932 ; and
- (e) whether the Moody-Ward system has worked within the estimated expenditure or exceeded it ?

TICKET CHECKING ON ASANSOL AND DINAPORE DIVISIONS OF THE EAST INDIAN RAILWAY.

796. ***Khan Bahadur Haji Wajihuddin :** (a) With reference to the reply to question No. 853 (b), dated 18th March, 1932, in the Legislative Assembly, will Government be pleased to state if it is a fact that on page 11 of the report of the Chief Auditor on the Appropriation Accounts of the East Indian Railway for 1928-29, it is stated that some of the branches of the Asansol and Dinapore Divisions where Crew operated were worked by T. T. Is. ?

(b) If the reply to the above be in affirmative, will Government be pleased to state why the Railway Board has no information ?

Mr. P. R. Rau : (a) The Report referred to states that the former system of ticket checking was in force over certain branches.

(b) I am afraid my attention had not been drawn to this particular part of the report quoted by my Honourable friend, but I might remind him that his original question was whether these branch lines were worked by Travelling Ticket Examiners brought from a non-crew area. The quotation which he has so kindly brought to my notice does not give a direct reply to that question.

ALLOWANCES OF TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

797. ***Khan Bahadur Haji Wajihuddin :** (a) With reference to the reply to question No. 1121, dated 2nd October, 1931, in the Legislative Assembly, will Government be pleased to state what duties are performed by drivers, guards and T. T. Es. while (i) the train is running and (ii) the train is at halt ?

(b) Will Government be pleased to state if it is a fact that T. T. Es. are paid a consolidated allowance and that such an allowance under Supplementary Rule 22 is paid to staff " whose duties require him to travel extensively " ?

(c) If the reply to part (b) be in the affirmative, will Government be pleased to state why the T. T. Es. on extensive running duty are paid Rs. 17-8-0 and Rs. 13-2-0 a month and guards paid much more than the former ?

Mr. P. R. Rau : (a) The duties and responsibilities of drivers and guards are prescribed in the General Rules for all Open Lines of Railways in British India, published in the Gazette of India, dated 9th March, 1929, under the Railway Board's Notification No. 1078-T., dated the 9th March, 1929. In addition to these duties, drivers are required, both while the train is running and during halts, to attend to various parts of the locomotive to ensure their working efficiently, while guards are required at stations to receive and deliver luggage and parcels, attend to passengers and assist generally to secure the comfort and safety of passengers. The duties of a Travelling Ticket Examiner vary on different railways according to the instructions issued by the Administrations concerned, but, in the main, they are confined to detecting passengers travelling without proper tickets or without their luggage, etc., properly booked. This work may be done both in running trains and when the train halts at a station.

(b) The practice varies on different railways ; and a permanent travelling allowance, where paid, is paid all the year round, but not during leave or joining time or when travelling allowance of any other kind is drawn.

(c) Does not arise—but the question of revising the existing allowances on the East Indian Railway to which the question presumably refers is under consideration.

Dr. Ziauddin Ahmad : Will the Honourable gentleman keep in his mind when he decides the question of T. T. Es. and T. T. Is. : it is rather an important question.

Mr. P. R. Rau : Certainly

MISAPPROPRIATION OF MONEY BY CERTAIN MEMBERS OF THE CREW STAFF.

†798. ***Khan Bahadur Haji Wajihuddin :** With reference to the reply to unstarred question No. 511 (d) by Mr. Amar Nath Dutt in the Legislative Assembly, dated 24th September, 1928, stating that no security from the temporary Crew staff was necessary, because the amount handled by them was very little, will Government be pleased to state how the amount of excess fare to the extent of Rs. 1,500 misappropriated by Mr. Duff of the Crew Department, Howrah, was accounted for and the same in respect of nine other men of the same department as acknowledged in reply to question No. 1110 (f) (i) by Sir Muhammad Yakub in the Legislative Assembly, on the 18th March, 1929 ?

SYSTEM OF TICKET CHECKING, CONTROL OF THE CREW STAFF, ETC., ON CERTAIN RAILWAYS.

799. ***Khan Bahadur Haji Wajihuddin :** With reference to the reply to starred questions Nos. 849, 852 (b) in the Legislative Assembly, dated 18th March, 1932, and No. 1112 (a), dated 2nd October, 1931, will Government be pleased to enquire from the Agents of the Railways, and lay on the table the information asked for in the questions quoted above ?

†For answer to this question, see answer to question No. 791.

Mr. P. R. Ban : As regards question No. 849, which was answered on the 18th March, 1932, and question No. 1112, which was answered on the 2nd October, 1931, Government did not consider that any useful purpose would be served by calling for the detailed information necessary, in order to ascertain what systems of ticket checking were in force on the various railways ten years ago, and what the reasons were for transferring the control of Travelling Ticket Examiners on the Oudh and Rohilkand Railway from the Operating to the Accounts Department 23 years ago. In both cases, considerable work would have been involved in the tracing up of report ?

In regard to part (b) of question No. 852, I did consider whether the information should be called for, but decided not to do so, as the compilation of the figures required would have involved a considerable amount of clerical labour.

In these circumstances, Government are unable to comply with my Honourable friend's request.

STOPPAGE OF THE CONSOLIDATED ALLOWANCE TO TRAVELLING TICKET EXAMINERS WHILE ON CASUAL LEAVE.

†800. ***Khan Bahadur Haji Wajihuddin :** With reference to question No. 1122, dated 2nd October, 1931, in the Legislative Assembly, will Government be pleased to state why the consolidated allowance paid to the T. T. Es. in the Moody-Ward system during casual leave has now been stopped ?

CONSOLIDATED ALLOWANCE OF THE TRAVELLING TICKET EXAMINERS.

†801. ***Khan Bahadur Haji Wajihuddin :** Will Government be pleased to state why the consolidated allowance of the T. T. Es. was subjected to 12½ per cent. cut long before the cut was applied to pay ?

WORK OF TRAVELLING TICKET EXAMINERS.

†802. ***Khan Bahadur Haji Wajihuddin :** (a) Is it a fact that in paragraph 8 on page 11 of Chief Auditor's Report on the Appropriation Accounts of the East Indian Railway for 1928-29, it is given :

“ The Crew system is under the control of the Chief Operating Superintendent whose work is tested by Crew Inspectors who work under the orders of the Chief Accounts Officer.”

(b) Will Government be pleased to state whether the work of the T. T. Es. of the Moody-Ward system introduced from 1st June, 1931, and working under the Chief Operating Superintendent is judged or tested by the Accounts Department ? If so, how ?

RE-EXAMINATION OF TRAVELLING TICKET EXAMINERS AND TICKET COLLECTORS.

†803. ***Khan Bahadur Haji Wajihuddin :** (a) With reference to question No. 850, dated 18th March, 1932, in the Legislative Assembly, will Government be pleased to state why the T. T. Es. and T. Cs., irrespective of past qualifications and long services, have been re-examined ?

†For answer to this question, see answer to question No. 791.

(b) Is it a fact that this examination is called efficiency test and is based on the suggestions of Divisional Commercial Officers ?

(c) Have the T. T. Es. or T. Cs. been given any training by the operating department ?

(d) Is it a fact that no Railway employees are subjected to such test without being given any training ?

(e) Were any such periodical tests ever held by the Accounts Department in respect of the old T. T. Es. ?

(f) Will Government state whether individual officers-in-charge of T. T. Es. have all passed an examination in checking duties ?

(g) Will Government please state whether the clerical staff working in the Claims section of the Chief Commercial Manager's Office have all passed Coaching, Goods and other examinations to deal with cases of contested claims ?

(h) Will Government please state whether clerks in Divisional Offices have passed recognised examinations of clerical duties ?

(i) Are clerks in the Accounts section of Divisional Offices and Head Offices qualified in accounts duties holding certificates or diplomas of accountancy ?

(j) Will Government be pleased to state if such periodical tests are held in respect of clerical, Engineering, Mechanical, Medical, Electrical, Accounts, Commercial Carriage and Wagons staff ?

(k) In view of the report of Mr. A. C. Badenoch, Director of Railway Audit, will Government please state whether such efficiency periodical test has not been considered necessary in respect of staff mentioned in part (j) above ?

VISION TEST FOR TRAVELLING TICKET EXAMINERS.

†804. *Khan Bahadur Haji Wajihuddin : (a) Will Government be pleased to state if it is a fact that in vision test classification the Travelling Ticket Examiners are placed in A-2 ?

(b) Is it a fact that this examination in A-2 is intended for those who are in operative control of signals ?

(c) Is it a fact that Block Signal Inspectors and the staff using trollies are placed in a lower category than the T. T. Es. ?

(d) Is it a fact that the T. T. Es. have nothing to do with the operation of signals nor are they required to know anything about them ?

(e) Is it a fact that the function of the T. T. Es. is to examine tickets and passes like the Ticket Collectors ?

(f) Is it a fact that the Ticket Collectors and Head Ticket Collectors are placed in a much lower category than the T. T. Es. in respect of the vision test ?

(g) Is it a fact that staff in ticket printing section are also placed much lower than the T. T. Es. in this respect ?

†For answer to this question, see answer to question No. 791.

(h) Is it a fact that Inspectors of T. T. Es. are also placed lower than T. T. Es. in this respect ?

(i) Is it a fact that officers are exempted from such strict or even ordinary periodical tests ?

(j) Is it a fact that hitherto Train Ticket Checkers used to be examined only at the time of their appointment in eye-sight and that used to be an ordinary test as compared with the present one and that no further examination was held till their retirement ?

(k) If the reply to parts (a) to (j) above be in the affirmative, what is the reason for this test in the case of the T. T. Es. now ?

(l) Is it a fact that although they are required to undergo revised vision test of a higher degree, yet in some of the Divisions the medical officers examine them in health in addition to vision ?

(m) On what authority is this done ?

PARTIAL PAYMENT OF ARREARS OF CONSOLIDATED ALLOWANCES TO THE STAFF IN THE DINAPORE DIVISION OF THE EAST INDIAN RAILWAY.

†805. *Khan Bahadur Haji Wajihuddin : (a) With reference to question No. 1122 (f) in the Legislative Assembly, dated 2nd October, 1931, will Government be pleased to state why partial payment of arrear consolidated allowance which was not paid during station duty has been made to the staff in Dinapore Division and why the balance has not been paid till now ?

(b) How much arrears have been paid so far and how much are left to be paid in Dinapore Division ?

(c) Why have these arrears not been paid to the staff in other Divisions ?

(d) When are the arrears expected to be paid up and is it a fact that they have accumulated for about five years of Crew working ?

RE-EXAMINATION OF THE STAFF DISCHARGED FROM SERVICE ON THE INAUGURATION OF THE MOODY-WARD SYSTEM IN THE DINAPORE DIVISION OF THE EAST INDIAN RAILWAY.

†806. *Khan Bahadur Haji Wajihuddin : (a) Will Government be pleased to state if the staff discharged from service on the inauguration of the Moody-Ward system and afterwards re-instated in the Dinapore Division have been again ordered to appear at an examination ? Is it a fact that they passed the same during the very year of the introduction of the system from 1st June, 1931 ?

(b) Will Government be pleased to state if it is a fact that contrary to Departmental Circulars, staff above 45 years of age are also forced to appear at this examination ? If so, why ?

TRAVELLING TICKET EXAMINERS IN THE MOODY-WARD SYSTEM.

†807. *Khan Bahadur Haji Wajihuddin : Will Government be pleased to state why some of the old Travelling Ticket Inspectors who worked

in that capacity for years and who also worked in the Crew system as Crew-in-charge have been utilised as Ticket Collectors in the present system and Crewmen who were not allowed to handle cash and who were in an inferior position to them have been utilised as Travelling Ticket Examiners in the Moody-Ward system ?

RE-APPOINTMENT OF STAFF ON THE RECOMMENDATIONS OF THE COURT OF ENQUIRY.

808. ***Khan Bahadur Haji Wajihuddin** : Will Government be pleased to state if the staff taken back in service on the recommendations of the Court of Enquiry have been re-instated or re-appointed ?

Mr. P. R. Rau : Government have instructed the Agents of the State-managed Railways, and invited those of the Company-managed Railways, to re-instate such employees who were discharged or demoted as a measure of retrenchment as were recommended by the Court of Enquiry for re-instatement.

FIRST CLASS RAILWAY PASSES ALLOWED TO THE HEADMISTRESS OF THE OAKGROVE SCHOOL.

809. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Muhammad Azhar Ali) : (a) Is it a fact that the Headmistress (Girls Section) of the Oakgrove School is an assistant under the Principal of that School ?

(b) Is it a fact that her scale of pay is only Rs. 250—350 ?

(c) Is it a fact that she is entitled to first class passes, as advertised in the *Statesman* recently ?

(d) Is it a fact that the scale of pay of Headmasters of Indian High Schools of the East Indian Railway as recently revised is Rs. 250—800 ?

(e) Is it a fact that the Headmasters of Indian High Schools are in sole charge of their schools and not as assistants under a Principal as is the case in the Oakgrove School ?

(f) Is it a fact that these Headmasters of Indian High Schools, in spite of their higher grade, are not allowed first class passes ?

(g) Why are these privileges withheld from the Headmasters of Indian High Schools ?

(h) What steps do Government propose to take to remove this example of racial discrimination ?

Mr. P. R. Rau : (a) The Head Mistress is in direct charge of the Girls' High School, but is responsible to the Principal who is in administrative charge of the Oakgrove School which consists of three separate schools, a Boys' High School, a Girls' High School and a Junior School for boys and girls.

(b) Yes.

(c) Yes.

(d) The pay of teachers in railway schools on the East Indian Railway was assimilated to the pay of teachers in Government Schools from 1st April, 1929.

(e) Yes.

(f) They are not allowed first class passes.

(g) and (h). The matter is under reference to the Agent, East Indian Railway, and I will lay a reply on the table in due course.

GRIEVANCES OF INDIANS IN TANGANYIKA.

810. *Mr. Gaya Prasad Singh : (a) Has the attention of Government been drawn to Mr. Chitale's speech in the Legislative Council of Tanganyika published in the *Tanganyika Opinion*, dated the 12th February, 1932, on page 7, under the heading " Mr. Chitale opposes all further taxation " ?

(b) Has the attention of Government been drawn to the text of the memorandum presented to Sir Fazl-i-Husain by the Indian Association of Dar-es-Salaam as published in the *Tanganyika Opinion* of 19th February, 1932, at page 10 ?

(c) What steps have Government taken to redress the grievances of the Indians of Tanganyika in respect of the non-native poll tax and Trades Licensing (Amendment) Ordinance, especially the complaint that " The Indian community of Tanganyika feel that in spite of the theoretical equality which they enjoy under the terms of the Mandate and as citizens of the Empire, there is a marked tendency on the part of the Government of Tanganyika to ignore their rights in various directions " ?

(d) Did Government receive any memorandum from the Dar-es-Salaam Indian Association on the subject ; and if so, what steps have Government taken on the issues involved, and with what result ?

Mr. G. S. Bajpai : (a) and (b). Yes, Sir.

(c) Government have been in communication with His Majesty's Government in regard to the Non-Native Poll Tax and Trades Licensing (Amendment) Ordinances. As regards the former, His Excellency the Governor of Tanganyika has given an assurance in the local Legislative Council that the substitution of the Poll Tax for the Non-Native Education Tax will not restrict or retard the provision of facilities for Indian education, subject to the limits imposed by the budgetary position, which presumably affects all communities. With regard to the Trades Licensing (Amendment) Ordinance, the Governor assured a deputation from the Indian community that there was no thought of racial discrimination underlying the legislation and that there would be no such discrimination in its application. He informed the deputation that Government fully realised the value of the Indian trader to the Territory and the necessity for protecting his interests.

(d) The Honourable Member presumably refers to representations received in regard to the Non-Native Poll Tax Ordinance and the Trades Licensing (Amendment) Ordinance. The answers I have just given cover this part of the question.

GRIEVANCES OF INDIANS IN TANGANYIKA AND PORTUGUESE EAST AFRICA.

811. *Mr. Gaya Prasad Singh : (a) Has the attention of Government been drawn to the *Tanganyika Opinion* of 26th February, 1932, at page 5 to a reproduction of the report of the proceedings of the Permanent Mandates Commission of the League of Nations regarding grievances of the Tanganyika Indian community ?

(b) Has the attention of Government been drawn to an article under the heading "Indians to be swept out of Portuguese East Africa" as published in the *Tanganyika Opinion*, dated the 4th March, 1932, at page 12, and also to page 4 of the *Tanganyika Opinion*, dated the 8th April, under the heading "Portuguese East Africa" giving the views of Mr. C. F. Andrews?

(c) What steps have Government taken to safeguard the interests of the domiciled Indian community in that territory, and with what results?

Mr. G. S. Bajpai : (a) Yes, Sir.

(b) and (c). I would draw the Honourable Member's attention to the reply given by Mr. Metcalfe on the 23rd September, 1932, to Lala Rameshwar Prasad Bagla's question, No. 694.

STATEMENT MADE BY THE GOVERNOR OF TANGANYIKA REGARDING
NON-PAYMENT OF NON-NATIVE POLL TAX.

812. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to the *Tanganyika Opinion* of 25th March, 1932, page 9, under the heading "Pandit Bhawani Dayal's Message to Tanganyika Indians" in the last paragraph of which a reference is made to an alleged statement that the Governor of Tanganyika said that those Indians who could not pay the non-native poll tax had better return to India?

(b) Have Government taken or propose to take any steps now to get such a suggestion from the Governor repudiated? If so, what? And if the statement is true, in what manner do Government propose to approach the Government of Tanganyika?

Mr. G. S. Bajpai : (a) Yes, Sir.

(b) So far as Government are aware, His Excellency the Governor of Tanganyika did not make the statement attributed to him. The second part of the question does not, therefore, arise.

MEMORANDUM OF THE DAR-ES-SALAAM INDIAN ASSOCIATION ON THE FINANCIAL
POSITION OF THE TANGANYIKA TERRITORY.

813. ***Mr. Gaya Prasad Singh :** Has the attention of Government been drawn to the text of the memorandum of the Dar-es-Salam Indian Association presented to Sir Sydney Armitage Smith on the financial position of the Tanganyika Territory as reproduced in the *Tanganyika Opinion* of the 22nd April, 1932, at pages 5 and 6?

Mr. G. S. Bajpai : Yes, Sir.

DISCRIMINATION IN THE TOWNSHIPS OF KENYA AGAINST INDIANS.

814. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to an article in the *Tanganyika Opinion*, dated the 29th April, 1932, page 14, under the heading "Segregation in the Townships of Kenya Re-introduced"?

(b) What steps did Government propose to take to stop this discrimination in the townships of Kenya against the Indians?

Mr. G. S. Bajpai : (a) Yes, Sir.

(b) So far as the Government of India are aware, the policy of segregation, as between Europeans and Asiatics in the Townships of Kenya, was abandoned in 1923, and restrictions on Indian occupation of premises in certain areas are limited only to those cases in which restrictive covenants were introduced before the White Paper of 1923 was published. These covenants have been held to be legally binding on Government. The Government of India are making enquiries as to the exact circumstances of the case referred to in the newspaper report to which the Honourable Member has drawn attention.

POSITION OF INDIANS IN TANGANYIKA AND PORTUGUESE EAST AFRICA.

815. ***Mr. Gaya Prasad Singh :** Has the attention of Government been drawn to the opinions of the Rev. Andrews on the Indian position in Tanganyika and in Portuguese East Africa with regard to the new Ordinances and as published in the *Tanganyika Opinion* of the 6th May, 1932, at page 2 ?

Mr. G. S. Bajpai : Yes, Sir.

RACIAL DISCRIMINATION IN THE PORT OF BOMBAY.

816. ***Mr. Gaya Prasad Singh :** (a) Has the attention of Government been drawn to a correspondence letter from A. C. L. DeSouza as reproduced in the *Tanganyika Opinion* of the 3rd June, 1932, at page 10, under the heading "In India Against Indians" on the subject of racial discrimination in the Port of Bombay ?

(b) Do Government propose to ask the Health Officer to change the arbitrary procedure as to the proof of the vaccination marks ?

Mr. G. S. Bajpai : (a) Yes.

(b) The Honourable Member has also doubtless perused the letter addressed on the subject by the Imperial Indian Citizenship Association, Bombay, to the Government of India. One of the suggestions made in that letter was that Government should issue a special list of medical practitioners whose certificates should be accepted by the Port Health Officer. This has been done. I place a copy of the list on the table of the House.

List of the authorities prescribed for the issue of certificates of vaccination which will be accepted by the Port Health Officer, Bombay.

- (1) All Civil Surgeons,
- (2) All Government Medical Officers,
- (3) All Municipal Vaccinators, and
- (4) All Government and Municipal Health Officers.

The Port Health Officer is also permitted at his discretion to accept certificates issued by registered medical practitioners personally known to him.

PROPOSED HANDING OVER OF THE POSTAL AND TELEGRAPH SERVICES IN
TANGANYIKA TO THE KENYA GOVERNMENT.

817. ***Mr. Gaya Prasad Singh** : (a) Has the attention of Government been drawn to an article in the *Tanganyika Opinion* of the 10th June, 1932, at page 13, under the heading " Scheme hatched to deprive Tanganyika of its supremacy " according to which it is proposed to hand over the Postal and Telegraph services, in Tanganyika (to which the Dar-es-Salaam Indian Association has objected) to the Kenya Government ?

(b) Do Government propose to make representations to the Colonial Office on the subject ?

Mr. G. S. Bajpai : (a) Yes, Sir.

(b) The Government of India are in correspondence with His Majesty's Government on the subject.

Dr. Ziauddin Ahmad : Will Government be pleased to communicate the strong resentment that is felt in the Indian Legislature and also in India generally on this particular question ?

Mr. G. S. Bajpai : I was not aware, Sir, that there was resentment in the House before even the Report of the gentlemen who has been appointed to inquire into this matter had been received. It may be a prospective resentment, but I would say that it is not justified at this juncture.

RACIAL DISCRIMINATION AGAINST INDIANS IN TANGANYIKA.

818. ***Mr. Gaya Prasad Singh** : (a) Has the attention of Government been drawn to the text of the memorandum of the Dar-es-Salaam Indian Association presented to Mr. Roger Gibb on the Railway problem in Tanganyika as published in the *Tanganyika Opinion* of the 15th July, 1932, at pages 7 and 8 ?

(b) Do Government propose to take necessary steps to have the racial discrimination against the Indians in several respects as disclosed therein removed ?

Mr. G. S. Bajpai : (a) Yes, Sir

(b) Government are awaiting Mr Gibb's report.

COMMERCIAL AND TRADE INTERESTS OF INDIANS IN KENYA AND EAST AFRICA.

819. ***Mr. Gaya Prasad Singh** : (a) Has the attention of Government been drawn to the *Tanganyika Opinion* of the 22nd July, 1932, pages 3, 6 and 8 indicating that a new East African Indian Chamber of Commerce and Industry has been established, and that the East African Indian interest generally and that of Kenya in particular is in danger ?

(b) Do Government propose to make necessary representations to the Imperial Government so that the commercial and trade interests of Indians in Kenya and East Africa may not be jeopardised as threatened ?

Mr. G. S. Bajpai : (a) Yes, Sir.

(b) The Government of India are in correspondence with His Majesty's Government on the subject.

FOOD SUPPLIED TO THE BENGALI STATE PRISONERS IN THE MIANWALI JAIL.

820. ***Mr. S. C. Mitra :** (a) Is it a fact that four Bengali State prisoners under Regulation III of 1818 are detained in the Mianwali Jail ?

(b) If so, is it a fact that they applied for being transferred to any Bengal Jail or Deoli Camp ?

(c) Is it a fact that they complained about the food supplied to them as being most unsuitable for Bengalis ? If so, what steps were taken by Government for redressing their grievances about food ?

(d) Is it a fact that the Civil Surgeon in charge of the jail also recommended for their transfer and is it also a fact that the said recommendation of the Civil Surgeon was rejected ; if so, will Government please state the reasons for rejecting the recommendation ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) and (c). Certain representations were received from these State Prisoners in June last in which they complained of the heat and of the lack of certain articles of Bengali diet and asked to be transferred to a cooler climate, but not specifying a Bengal Jail or Deoli. The State Prisoners are supplied as far as possible, with the articles of diet to which they are accustomed, and the medical reports received show that they are generally keeping good health.

(d) No such recommendation by the Jail Superintendent has been received by the Government of India.

WITHHOLDING OF COMMUNICATIONS FROM, AND REDUCTION IN DAILY ALLOWANCES OF, THE BENGALI STATE PRISONERS IN THE MIANWALI JAIL.

821. ***Mr. S. C. Mitra :** (a) Is it a fact that all communications from the four Bengali State prisoners in Mianwali Jail to their relations, business partners, friends and to the Members of the Legislative Assembly are withheld by the authorities concerned ? If so, will Government please state the reasons for withholding each of such communications ?

(b) Is it a fact that the daily allowance for these State prisoners has been reduced from Re 1-12-0 to Re. 1-6-0 ; if so, why ? Will Government please state the percentage of reduction in this case and how it bears to the general ten per cent. reduction in Government expenditure ?

The Honourable Mr. H. G. Haig : (a) Certain complaints, in the matter of the censorship of their correspondence, have been received from these State Prisoners. The matter is under enquiry.

(b) No, Sir. I would refer the Honourable Member to the reply given by me to his question No. 194 on the 13th September, 1932.

CONCENTRATION OF STATE PRISONERS IN THE DEOLI DETENTION CAMP.

822. ***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether they considered the question of concentrating all the State prisoners now being detained in different jails in different provinces in the Deoli Camp ?

(b) If not, do Government propose to consider the question ? If not, why not ?

(c) Are Government aware that there is at present a great difficulty in supplying Bengali food to the Bengal State prisoners in different jails

scattered all over India, and are they prepared to consider whether by concentrating all State prisoners in a single camp this food difficulty may be greatly mitigated ?

The Honourable Mr. H. G. Haig : (a) and (b). No. There are, in the opinion of the Government of India, definite objections to transferring all those who are at present State Prisoners under Regulation III from the jails in which they are confined to the Deoli Camp.

(c) I am satisfied that all that is reasonably possible is done to ensure that the Bengal State Prisoners have a diet to which they are accustomed.

EMPLOYEES OF THE POSTS AND TELEGRAPHS DEPARTMENT HOLDING COMMERCIAL DIPLOMAS OF THE UNITED PROVINCES.

823. **Mr. S. G. Jog** (on behalf of Mr A. Da-) . (a) Will Government be pleased to state, having regard to the Government of India order No. 74-Est. 28 (Department of Industries and Labour, P. and T., dated the 19th September, 1930), the circumstances under which the holders of the Commercial Diploma of the Board of High School and Intermediate Education, United Provinces, appointed in the post offices before the 19th September, 1930, have been disallowed the benefit of being treated as undergraduates in the United Provinces Circle ?

(b) Will Government be pleased to state how many holders of the said diploma entertained in the department of Posts and Telegraphs prior to 19th September, 1930, have been granted the benefit of higher rate of pay given to the undergraduates ?

(c) Will Government be pleased to state the number of employees holding the Commercial Diploma certificate who have been disallowed the benefit of higher rate of pay given to undergraduates ?

(d) Do Government propose to reconsider the order quoted in part (a) above, and give relief to those affected by it with retrospective effect ?

Mr. T. Ryan : (a) Because the concession sanctioned in the Government of India order referred to by the Honourable Member was granted to those degree and diploma holders in Commerce who entered the Posts and Telegraphs Department on the time-scales of pay of the clerical service on or after the 19th September, 1930, the date of the order, and it is not the practice for Government to grant concessions with retrospective effect.

(b) None, for the reasons just stated in the reply to part (a).

(c) Government regret that the information is not readily available, nor do they propose to call for it, in view of the time and labour which would be involved in its collection.

(d) No.

COLLIERIES AUCTIONED AT BURDWAN, ASANSOL AND DHANBAD SINCE MR. WHITWORTH'S APPOINTMENT AS CHIEF MINING ENGINEER.

824. ***Mr. A. H. Ghuznavi :** Will Government be pleased to lay on the table a statement giving the names of the collieries which have been sold in auction at Burdwan, Asansol and Dhanbad, since Mr. Whitworth has been appointed Chief Mining Engineer, and stating, if possible, the causes for which they were sold ?

Mr. P. R. Rau : Government have no information.

Dr. Ziauddin Ahmad : May I know whether the Government were or were not consulted before these collieries were auctioned ?

Mr. P. R. Rau : These are not collieries belonging to Government.

MEDICAL TREATMENT OF CERTAIN BENGALI STATE PRISONERS IN THE DAMOH JAIL.

825. ***Mr. S. C. Mitra :** (a) Is it a fact that four Bengali State prisoners, *viz.*, (i) Professor Jyotish Chandra Ghosh, (ii) Mr. Bhupati Majumdar, (iii) Mr. Surash Chandra Das, and (iv) Mr. Purnachandra Das have been detained in the Damoh Jail, Central Provinces, under Bengal Regulation III of 1818 since the beginning of January this year ?

(b) If so, is it a fact that Professor Ghosh has been suffering from various ailments, culminating in nervous prostration ?

(c) How long has he been under incarceration at a stretch ?

(d) Do Government propose to release him or relax the rigour of detention in consideration of his ill-health ? If not, why not ?

(e) Is it a fact that Mr. Bhupati Majumdar has been suffering from nasal trouble ?

(f) If so, do Government propose to transfer him to a place where he can get better medical treatment ?

(g) Are Government aware that he was treated some months before in the Calcutta Medical College, when he was suffering from similar nasal troubles ?

(h) What is the report of the specialist of the Calcutta Medical College regarding the health of Mr. Purnachandra Das just before his transfer to the Central Provinces ?

(i) Does the report show that he was suffering from Duodenal ulcer of a chronic type at the time of his transfer to Damoh ?

(j) Has he ever vomited persistently since he came to the Central Provinces ?

(k) Do Government propose to transfer him to a place where he can get better medical aid ? If not, why not ?

(l) Did Government consider the health report of these persons before they selected Damoh Sub-Jail as the proper place for their detention ?

(m) Did the Bengal Government send the health reports of these State prisoners before their transfer so as to enable the Central Provinces Government to choose a suitable place for their detention in the light of these reports ?

(n) Will Government be pleased to state whether the hospital of a sub-jail like Damoh is sufficiently equipped for treatment of such diseases ?

(o) Is it a fact that the Bengal Regulation III of 1818 lays down that the Superintendents of Jails shall at once report to Government whether the rigour of detention is likely to tell upon the health of the prisoners and that a periodical report of their health should be submitted to Government ?

(p) If so, will Government be pleased to state if any such report has been submitted ? If not, why not ?

(q) If it has been submitted, will they be pleased to place them on the table ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) He is reported to be suffering from Neurasthenia for some years. His chief complaint is disturbed sleep, but his general health has been satisfactory and the last report received in August showed that he had gained 9 lbs. in weight since his admission to the jail.

(c) He has been detained under Regulation III of 1818 since the 1st January, 1932.

(d) No.

(e) On admission to the Damoh Jail, he was troubled with a nasal complaint which disappeared without treatment, possibly due to change of residence.

(f) Does not arise.

(g) I have no information about this.

(h), (i) and (j). I have no information regarding his previous medical history, but the reports received by me show that though he was reported to suffer from duodenal ulcer, he has gained 11 lbs. in weight since admission to the Damoh Jail, takes ordinary diet and, except for an attack of gastritis for three days in August last, his general health is reported to be satisfactory.

(k) The medical reports do not show that there is any need to consider the question of his transfer, nor is there any reason to believe that the medical treatment is inadequate.

(l) and (m). The Damoh Sub-Jail was selected as the most suitable place for the detention of these State Prisoners in the Central Provinces. There is nothing to suggest that, from the point of view of health, it is unsuitable.

(n) There is no reason to suppose that the medical facilities are inadequate.

(o), (p) and (q). Section 6 of Regulation III of 1818 requires the submission of a report from the Jail Superintendent as to whether the degree of confinement imposed on the State Prisoner appears liable to injure his health. A report under this section was duly submitted to Government. Periodical reports under section 4 of the Regulation by the officer appointed to visit and report on these prisoners are being received regularly. I am not prepared to lay copies of these reports on the table.

INADEQUATE DIETARY ALLOWANCE GRANTED TO THE BENGALI STATE PRISONERS IN THE DAMOH JAIL.

826. ***Mr. S. C. Mitra :** (a) Is it a fact that State prisoners get Re. 1-8-0 per diem per head as dietary allowance ?

(b) Is it a fact that they have to bring *dal*, fish, sweets and other articles of their daily consumption from Bengal at the rate of Rs. 8 per maund as freight charge ?

(c) Is it a fact that they have to bring some other articles such as plantains, oranges and rice from Jubbulpore and other places far away from Damoh ?

(d) Are Government aware that the freight charges on such articles consume a great portion of their diet allowance? If so, do Government propose to increase their diet allowance?

The Honourable Mr. H. G. Haig : (a) Diet allowances vary according to local conditions.

(b), (c) and (d). I have no information about freight charges; but, in consideration of the fact that certain articles are not available locally, the diet allowance at Damoh has been raised.

GRIEVANCES OF BENGALI DETENUS DETAINED IN PROVINCES OUTSIDE BENGAL.

827. ***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether they have carried out the solemn pledge given by Sir James Crerar in the last Assembly Session in connection with the transfer of Bengali detenues to other provinces to the effect that liberal rules will be framed for their treatment and that conditions obtaining in Bengal will be created where they are kept?

(b) Is it a fact that Bengal Regulation III of 1818 provides that the State prisoners should be treated in jail according to their rank and station in life?

(c) If so, do Government propose to remove their grievances by increasing their allowances and giving proper facilities for their exercise?

The Honourable Mr. H. G. Haig : (a) I would refer the Honourable Member to the replies given by me to part (b) of Mr. Gaya Prasad Singh's question No. 22 on the 5th September.

(b) The Regulation requires that suitable provision should be made for the support of a State Prisoner according to his rank in life and to his own wants and this factor is taken into consideration in each case.

(c) Does not arise.

DETENUS IN THE DAMOH SUB-JAIL.

828. ***Mr. S. C. Mitra :** (a) Are the detenues at Damoh confined day and night in a yard of the Damoh sub-jail? Are Government aware that such a confinement for an indefinitely long period will tell heavily on their health and mind?

(b) If so, what step do Government propose to take to remove the rigours of confinement in the interest of their health? If none, why not?

The Honourable Mr. H. G. Haig : (a) and (b). The medical reports received show that the degree of confinement is not injurious to their health. Sanction has been accorded to the confinement of these prisoners in a separate building adjacent to the Damoh Sub-Jail, with a view to provide better accommodation for them than was available in the jail itself.

SUPPLY OF BOOKS TO DETENUS.

829. ***Mr. S. C. Mitra :** What arrangements have been made for the supply of books in the cases of the detenues?

The Honourable Mr. H. G. Haig : The arrangements for the supply of books to persons dealt with under the Bengal Criminal Law Amendment Act, 1930, are regulated by rules made by the Government of Bengal. In

regard to the Bengal detenus transferred to the Deoli Camp Jail, I would refer the Honourable Member to Rule 8 of the Bengal Detenus Custody Rules, framed by the Chief Commissioner, Ajmer-Merwara, and published in the Gazette of India, dated the 14th May, 1932.

Mr. K. C. Neogy : Is the Honourable Member aware that in the list of periodicals, which the detenus at Deoli are permitted to read, there are certain periodicals which ceased to exist long ago ?

The Honourable Mr. H. G. Haig : Possibly the detenus are anxious to read the earlier numbers of those periodicals.

Mr. K. C. Neogy : Can the Honourable Member tell us who it was that drew up that particular list ?

The Honourable Mr. H. G. Haig : The list is based on the rules in force in Bengal.

Mr. S. C. Mitra : What is the arrangement for the supply of books to State Prisoners who are not in Deoli or in Bengal, but in other provinces of India ?

The Honourable Mr. H. G. Haig : I imagine that arrangements are made locally.

INADEQUATE ALLOWANCES GRANTED TO BENGALI STATE PRISONERS DETAINED OUTSIDE BENGAL.

830. ***Mr. S. C. Mitra :** (a) Is it a fact that Rs. 1-10-0 has been fixed per head per diem for the detenus in Buxar Detention Camp in Bengal ?

(b) If so, why has a meagre allowance of Rs. 1-8-0 been sanctioned for the State prisoners outside Bengal ?

The Honourable Mr. H. G. Haig : (a) No. I understand the rate is much less than that.

(b) Does not arise.

ALLOWANCES, HEALTH, ETC., OF THE BENGALI STATE PRISONERS CONFINED IN JAILS OUTSIDE BENGAL.

831. ***Mr. S. C. Mitra :** (a) What are the dietary allowances fixed for the Bengalee State prisoners now confined in the Trichinopoly, Cannanore, Rajahmundry, Central Jails in Madras, Mianwali and Rawalpindi Jails in Punjab, and Peshawar Jail in the North-West Frontier Province ?

(b) Do Government propose to place on the table the health reports of the State prisoners detained in those jails ? If not, why not ?

(c) Will Government kindly state the period of detention of the State prisoners detained in those Jails and in the Damoh (Central Provinces) under Bengal Criminal Law Amendment Act and Bengal Regulation III of 1818 ?

(d) Is it a fact that almost all the violent revolutionary crimes were perpetrated long after their detention ?

(e) What were the terroristic violent crimes committed before their detention which justified their incarceration ?

(f) Does Bengal Regulation III enjoin that His Excellency the Governor General and Viceroy should be satisfied in case of its application ?

(g) If so, did Government place all the necessary papers of all the prisoners detained under the Regulation before His Excellency the Governor General ? If not, why not ?

The Honourable Mr. H. G. Haig : (a) I would refer the Honourable Member to the statement I laid on the table in reply to Sardar Sant Singh's question No. 163 on the 12th September, 1932.

(b) These reports are submitted for the information of Government. I regret, I am not prepared to lay them on the table.

(c) The information is given in the statement I laid on the table in reply to Sardar Sant Singh's question No. 163 on the 12th September. There are no persons detained under the Bengal Criminal Law Amendment Act in any of these provinces.

(d) No.

(e) I cannot disclose the information on which Government acted.

(f) and (g). Action taken under Regulation III is determined by the Governor General in Council (not the Governor General) after due consideration of all the circumstances relevant to each case.

CENSORSHIP OF LETTERS AND BOOKS OF STATE PRISONERS.

832. *Mr. S. C. Mitra : (a) Will Government be pleased to state who is the censor of letters and books of the State prisoners ?

(b) Who has selected him for the purpose ?

(c) Have Government promulgated any rules for his guidance ?

(d) If so, will the Honourable Member-in-charge be good enough to place them on the table ?

(e) If there are no rules, will Government be pleased to state what procedure the prisoners are expected to adopt for appealing to higher authorities against the orders of such censoring authorities ?

(f) Is it a fact that some officers of I. B., C. I. D. Bengal, other than the censor, sign in his behalf the communications of the State prisoners and information regarding the withholding of letters in all cases ?

(g) If so, what is the function of the censor ?

(h) Is it a fact that the censor takes more than two weeks in censoring the letters in-coming and out-going ?

(i) Is it a fact that in case of a letter being withheld the censor informs the State prisoners concerned after over a month ?

(j) Is it a fact that no reason is assigned by the censor for withholding any letter ?

(k) Is it a fact, that the censor did not pass such books as the ' Socialist Movement ' by Ramsay MacDonald the present Prime Minister of England for the study of the State prisoners at Damoh (Central Provinces) ?

(l) Does the censor himself read the books and form his opinion or does he censor them on the title of the books and the names of their authors ?

(m) Who is the appellate authority against the censor's decision ?

(n) Is it a fact that congratulatory letters to the Mayor and Deputy Mayors of Calcutta from the State prisoners at Damoh have been withheld ? If so, why ?

(o) Is it a fact that letters enquiring of the health of friends and relations have been stopped ? If so, why ?

The Honourable Mr. H. G. Haig : (a) to (j), (l), (m) and (o). The censorship of the correspondence of State Prisoners confined under Regulation III of 1818 is conducted in the provinces to which they belong. Books are allowed at the discretion of the Jail Superintendent who, in cases of doubt, consults the District Magistrate or the Commissioner of Police, as the case may be. It is always open to the State Prisoners to submit representations in this matter if they have any grievance and all such representations are forwarded to and dealt with by the Government of India under the provisions of section 5 of the Regulation. Such complaints, as have been made, have been enquired into with a view to removing any real grievance as regards delay or other matters as far as is consistent with the proper exercise of censorship.

(k) and (n). I have no information and have received no representations on these points.

Mr. B. Das : Have any State Prisoners submitted any representation that they were not allowed to read the Premier Ramsay MacDonald's book, and, if so, will he consider that representation ?

The Honourable Mr. H. G. Haig : I shall certainly examine any representation, that is made.

Mr. B. Das : Has the Honourable Member read that particular book, and has he found it objectionable to read ?

The Honourable Mr. H. G. Haig : I am afraid I have not had the advantage myself of reading the book.

FACILITIES TO STATE PRISONERS FOR OUT-DOOR EXERCISES AND GAMES.

833. ***Mr. S. C. Mitra :** Will Government be pleased to state as to what facilities have been given to State prisoners in different jails for outdoor exercises and games ? If none, why not ?

The Honourable Mr. H. G. Haig : Facilities for exercise vary according to local circumstances. Arrangements are made by the Superintendent with due regard to the maintenance of jail discipline and the safe custody of the State Prisoners. They are allowed to exercise in the open air in the mornings and evenings, and, where conditions permit and they so desire, arrangements are made for badminton, Indian clubs, and other forms of exercise.

APPOINTMENT OF A MEMBER OF THE LAHORE CANTONMENT BOARD AS THE EXECUTIVE OFFICER.

834. ***Sirdar Sohan Singh :** (a) Is it a fact that resolution No. 27 (1) of the Lahore Cantonment Board meeting held on 30th April, 1932, was moved to empower one of the elected members of that Board to perform the duties of the Executive Officer during his absence ?

(b) Is it also a fact that this resolution was supported by all the seven elected members and was defeated by sheer weight of the official majority of eight members ?

(c) If the answer to the above is in the affirmative, what action do Government propose to take in the matter ?

Mr. G. R. F. Tottenham : (a), (b) and (c). Government have no information. I have called for a report and will lay the answer on the table as soon as possible.

REDUCTION IN THE RATES FOR STREET LIGHTING IN THE LAHORE CANTONMENT.

835. ***Sirdar Sohan Singh** : (a) Will Government be pleased to state whether it is a fact that the Military Engineering Services, Lahore Cantonment, charge four annas and six pies per unit for street lighting from the Lahore Cantonment Board ?

(b) Is it a fact that the charge from private retail consumers is only annas four per unit in the same Cantonment by the same Department ?

(c) Is it also a fact that in the neighbouring municipality of Lahore only three annas and six pies per unit is paid on account of street lighting and that even this rate is considered high by the Dobson Enquiry Committee in paragraph 127 of their report ?

(d) Is it also a fact that the Cantonment Board, Lahore, has several times protested against this high rate ?

(e) If the answer to the above is in the affirmative, are Government prepared to order a reduction in the rates of this military department ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) Yes.

(c) I am prepared to accept the Honourable Member's statement of the facts.

(d) No, Sir ; Government have not received any protest. They have been informed, however, that when agreeing to pay the rates now charged, the Board added to their Resolution a rider to the effect that these rates should be reduced.

(e) Government are prepared to examine on its merits any representation on the subject which the Board may decide to make.

PILGRIMS TO AND REPATRIATED FROM HEDJAZ.

836. ***Mr. Rahimtoola M. Chinoy** : Will Government be pleased to lay on the table a statement giving the figures for each year separately from 1919 to 1931 showing :

(a) the number of destitute pilgrims repatriated from Hedjaz and their percentage in respect to the total number sailed from India,

(b) the total cost incurred on account of destitute pilgrims repatriated from Hedjaz to India,

(c) the number of pilgrims who sailed with single tickets without depositing the amount required for the return journey,

(d) the number of pilgrims who sailed to Hedjaz with single tickets and depositing the amount required for the return journey,

(e) the number of pilgrims who sailed to Hedjaz with return tickets, and

(f) the names of the Shipping Companies carrying pilgrims to the Hedjaz and the minimum and maximum rates of passage charged by them ?

Mr. G. S. Bajpai : A statement giving such information, as is available, is laid on the table.

1	2	3	4	5	6	7	8	9
Year.	Number of destitute pilgrims repatriated from the Hejaz.	Percentage of destitutes to the total number of pilgrims sailed from India.	Total cost of repatriation.	Number of pilgrims with single tickets without depositing money to cover the cost of return passage.	Number of pilgrims who deposited money to cover the cost of return passage.	Number of pilgrims who sailed with return tickets.	Names of Shipping Companies engaged in the pilgrim traffic and the minimum and maximum rates charged by them.	Remarks.
							(a) Names of Shipping Companies.	(b) Minimum rate. * (c) Maximum rate. * Single. Return. Single. Return.
1919	(A)	(A)	(A)	The system of compulsory deposits or return tickets was not in force.			(1) Mogul Line .. (2) Shustari Line .. (3) B. I. S. N. Co. ..	(A) Information as to the number of pilgrims repatriated is not available. In 1919, the Government of India made special arrangements at considerable expense to induce Shipping Companies to issue return tickets at prewar rates. Single tickets were issued only to such pilgrims as did not intend to return to India. In 1920, special arrangements were again made as in the preceding year, but some Shipping Companies who agreed to issue return tickets issued a limited number of single tickets.
1920	(A)	(A)	(A)	Do.			(1) Mogul Line .. (2) Shustari Line ..	150 is available. No information is available.

Rates are for deck-passages without food from Bombay or Karachi.

(A) Information as to the number of pilgrims repatriated is not available. In 1919, the Government of India made special arrangements at considerable expense to induce Shipping Companies to issue return tickets at prewar rates. Single tickets were issued only to such pilgrims as did not intend to return to India. In 1920, special arrangements were again made as in the preceding year, but some Shipping Companies who agreed to issue return tickets issued a limited number of single tickets.

1 Year.	2 Number of destitute pilgrims repatriated from the Hejaz.	3 Percentage of destitutes to the total number of pilgrims sailed from India.	4 Total cost of repatriation. Rs.	5 Number of pilgrims who sailed with single tickets without depositing money to cover the cost of return passage.	6 Number of pilgrims who deposited money to cover the cost of return passage.	7 Number of pilgrims who sailed with return tickets.	8 Names of Shipping Companies engaged in the pilgrim traffic and the minimum and maximum rates charged by them.						9 Remarks.
							Names of Shipping Companies (a).	(b)		(c)			
								Minimum rate.*					
								Single.	Return.	Single.	Return.		
1921	500	4.5	40,000 (B) 30,000	The system of compulsory deposits or return tickets was not in force.			(1) Mogul Line (2) Shustari Line	Rs. 100 80	Rs. 175 80	Rs. 100 80	Rs. 175 ..	* Rates are for deck-passages without food from Bombay or Karachi. (B) This amount was paid by the Central Haj Committee from funds collected by it. (C) Includes 1,049 destitutes repatriated free of charge by Shipping Companies. (D) Includes Rs. 2,800 paid by the Central Haj Committee from funds collected by it.	
1922	1,108	8.6		Do.			(1) Mogul Line (2) Nemazi Line (3) Shustari Line (4) Khandwani Line	25 16½ 20 5	100	90 60 90 70	165		
1923	(C) 2,765	11.3	(D) 37,900	Do.			(1) Mogul Line (2) Nemazi Line (3) Shustari Line (4) Khandwani Line	50 25 30	140 110 ..	125 120 120	190 140 ..		
1924	160	0.9	5,120	2,285	15,912	63	(1) Mogul line (2) Nemazi Line (3) Shustari Line	35 25 25	.. .. ..	125 100 100	.. .. ..	
1925	28	1.18	1,508	102	1,633	630	(1) Mogul Line (2) Nemazi Line	125 125	195 195	125 125	195 195	The return fare from Calcutta charged by this Company was Rs. 210. Ditto.	
1926	472	2.5	26,802	3,409	7,392	13,546	(1) Mogul Line	35	125	95 95	195 195		
							(2) Nemazi Line (3) Shustari Line	25 20	125 110	No information is available.	No information is available.		

* Rates are for deck-passages without food from Bombay or Karachi.

(B) This amount was paid by the Central Haj Committee from funds collected by it.

(C) Includes 1,049 destitutes repatriated free of charge by Shipping Companies.

(D) Includes Rs. 2,900 paid by the Central Haj Committee from funds collected by it.

The return fare from Calcutta charged by this Company was Rs. 210.
Ditto.

1927	188	0.5	3,450	2,764	1,617	31,732	(1) Mogul Line (2) Nemazi Line (3) Shustari Line	.. .. ..	125 25 70	195 90 110	125 125 125	195 195 195	The single fare from Calcutta changed by this Company varied from Rs. 110 to Rs. 145.
							(4) B. I. Line	..	..	..	..	..	The single fare from Calcutta charged by this Company was Rs. 150 fixed.
1928	179	0.8	(E) 2,417	4,696	394	15,902	(1) Mogul Line	..	90	120	125	195	The single fare from Calcutta was Rs. 150 and the return fare Rs. 250.
							(2) Nemazi Line	..	20	25	125	195	(E) Includes Rs. 917 contributed by pilgrims.
							(3) Shustari Line	..	40	50	125	195	
1929	139	0.7	4,011	3,619	777	15,260	(1) Mogul Line (2) Nemazi Line (3) Shustari Line	.. .. ..	125 25 125	195 25 195	125 125 125	195 195 195	The single fare from Calcutta was Rs. 140 and the return fare Rs. 240.
1930	387	2.3	(F) 14,805	3,253	933	10,872	(1) Mogul Line (2) Nemazi Line	.. ..	125 75	195 145	125 125	195 195	The single fare from Calcutta was Rs. 150 and the return fare Rs. 250.
													(F) Includes Rs. 1,009 contributed by pilgrims.
1931	318	3.3	13,239	1,143	30	8,081	(1) Mogul Line (2) Nemazi Line	.. ..	110 80	160 140	110 110	180 160	The single fare from Calcutta was Rs. 135 and the return fare Rs. 215.

RECOMMENDATIONS OF THE HAJ INQUIRY COMMITTEE.

837. *Mr. Rahimtoola M. Chinoy : Will Government be pleased to state :

- (a) whether they have accepted recommendations Nos. 29 to 33 of the Haj Inquiry Committee and, if so, what steps they have taken or propose to take to give effect to those recommendations with regard to improving the arrangements for the accommodation and medical inspection of pilgrims at " F " Shed, Alexandra Docks, Bombay ;
- (b) whether they have accepted recommendations Nos. 214 to 217 of the Haj Inquiry Committee and, if so, to what extent they have reduced or propose to reduce the Kamaran dues ;
- (c) whether they have accepted recommendations Nos. 53 and 54 of the Haj Inquiry Committee, and, if so, what action they have taken to recover from shipping companies the sums due by them as compensation to the pilgrims ;
- (d) whether it is a fact that shipping companies have, taking advantage of the ambiguity of Rule 68 N. (2) of the Indian Merchant Shipping Act, refused to make over to Government, for credit to the Indigent Pilgrims' Fund, such amounts of deposits for return passage refundable by them and, if so, the amount so withheld by the shipping companies ; and
- (e) whether it is a fact that shipping companies have recovered from Government the amounts previously refunded by them on account of unclaimed passage money under Rule 68 N. (2) of the Indian Merchant Shipping Act and, if so, the amount so recovered by the shipping companies ?

Mr. G. S. Bajpai : (a) Recommendations Nos. 29—33 have been accepted in principle. Practical effect will be given to them as soon as financial conditions permit.

(b) Recommendations Nos. 216—217 have not been accepted, because they conflict with the provisions of the Anglo-Dutch Agreement regarding Kamaran. As regards recommendations Nos. 214—215, Government are doing everything possible to reduce expenditure at Kamaran and are examining the question of reducing the Kamaran dues in consultation with the Government of the Netherlands East Indies, whose consent is required before the dues can be reduced.

(c) The Government of Bombay have filed a suit against the Nemazee Line for the recovery of sums due from that Company as compensation to pilgrims. No further action is possible on recommendations Nos. 53—54 until the result of the suit is known.

(d) and (e). The Honourable Member is referred to the reply given on the 16th September, 1931, to parts (a) and (b) of starred question No. 386 asked by Khan Bahadur Haji Wajihuddin.

Dr. Ziauddin Ahmad : Cannot the Honourable Member give us the amount which they paid back to the company on account of this recovery ?

Mr. G. S. Bajpai : I can obtain the information, in so far as it is available, for the Honourable Member.

PROPOSED ABOLITION OF PASONDA OR SAKNARA POST OFFICE IN THE BURDWAN DISTRICT.

838. ***Mr. B. N. Misra :** Will Government be pleased to state whether it is a fact that :

- (a) there is a proposal for the abolition of either Pasonda or Saknara Post Office in the district of Burdwan (Bengal) ;
- (b) Pasonda Post Office is nearer to the local market, boat-station and place of business, where big shops are also situated, as compared to Saknara P. O. in the district of Burdwan (Bengal) ; and
- (c) Pasonda Post Office is situated in a central place so far as the jurisdictions of both Saknara and Pasonda Post Offices in the district of Burdwan (Bengal) are concerned ?

Mr. T. Ryan : Government have no information. The matter is within the competence of the Postmaster General, Bengal and Assam, to whom a copy of the question is being sent.

BRANCH POSTMASTERS WITHIN THE JURISDICTION OF THE RAINA SUB-POST OFFICE IN THE BURDWAN DISTRICT.

839. ***Mr. B. N. Misra :** (a) How many Branch Post Masters are there within the jurisdiction of Raina Sub-Post Office in the district of Burdwan ?

(b) How many of them are Mussalmans ?

(c) Will Government please state whether the residents of villages under the postal jurisdictions of Raina and its branch Post Offices are both Hindus and Mussalmans ?

Mr. T. Ryan : (a) Five, all of whom are Extra-Departmental Agents.

(b) One.

(c) Yes.

INCOME-TAX COLLECTED ON INCOMES BELOW RS. 2,000.

840. ***Mr. A. Das :** (a) Will Government please state the amount of tax collected from 31st March, 1931 to 30th April, 1932, on incomes from Rs. 1,000 and above and up to Rs. 2,000 or below in the whole of India ?

(b) What has been the total expenditure on this collection, what is the net yield to Government during this period, what was Government's estimate about it and by how much has the yield fallen short of Government's estimate ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) I am not in a position to give the figures for the period of 13 months and one day to which the Honourable Member refers. Subject to check when the accounts figures are received, the receipts in the financial year 1931-32 on incomes from Rs. 1,000 to Rs. 1,999 amounted to Rs. 15,68,521.

(b) The total expenditure incurred during the year 1931-32, in connection with the collection of the tax on lower incomes, was approximately Rs. 2½ lakhs. The original estimate of expenditure for that year on

that account was Rs. seven lakhs. The original estimate of the yield from the tax on lower incomes for the year 1931-32 was Rs. 38 lakhs.

Dr. Ziauddin Ahmad : May I ask what is the percentage of the actuals compared with the expectation ?

The Honourable Sir C. P. Ramaswami Aiyar : The percentage is the percentage of 15 to 38. (Laughter.)

Dr. Ziauddin Ahmad : That is less than 50 per cent.

The Honourable Sir C. P. Ramaswami Aiyar : That is a matter of arithmetical calculation.

Rao Bahadur B. L. Patil : May I know whether Government expect any more income from this source ?

The Honourable Sir C. P. Ramaswami Aiyar : They do.

ALLEGED INJUSTICE TO CERTAIN TICKET CHECKING AND TICKET COLLECTING STAFF OF THE EAST INDIAN RAILWAY.

841. ***Dr. Ziauddin Ahmad :** (a) Is it not a fact that the attention of the Railway Board has been drawn by the Members of the Assembly, Railway organisations and individuals to the injustice done by the East Indian Railway to (i) the old Travelling Ticket Inspectors, (ii) the crews and the crews-in-charge, and (iii) ordinary ticket collectors in the fixing of the salaries in the proposed Moody-Ward scheme ?

(b) Is it not a fact that Government repeatedly replied that the matter is under investigation and that report has been called for from the Agent of the East Indian Railway ?

(c) Did the Railway Board make an independent inquiry ?

(d) How many times did the Railway Board approach the Agent of the East Indian Railway by correspondence or personal conversations and on what dates ?

(e) Did the Agent give any reply to such inquiries ; if not, why not ?

(f) Is the Agent, East Indian Railway, bound to obey the orders issued by the Railway Board and act according to their directions ?

(g) If not, what are the relations between the Agents and the Railway Board ?

Mr. P. R. Rau : (a) The attention of the Railway Board has been drawn to the alleged grievances of the Ticket Checking staff of the East Indian Railway in the matter of the pay allowed to them under the Moody-Ward Scheme.

(b) to (e). As similar questions arose with reference to similar staff on the Eastern Bengal and North Western Railways, the question was discussed by the Railway Board with representatives of the three State Railways concerned. Detailed proposals have recently been submitted by the Agents which are at present under the consideration of the Railway Board. It is hoped that the points at issue will be settled very shortly.

(f) Yes.

(g) Does not arise.

Dr. Ziauddin Ahmad : I thank the Honourable gentleman for settling this question for ever, but will he also keep in mind the subject matter of part (c) of question No. 797 ? It is this, in giving allowance to the Travelling Ticket Inspectors, the rule is that the time must be over eight hours and the time is so fixed that it is only seven hours 59 minutes, 59 seconds, so that they may not get any travelling allowance.

Mr. P. R. Rau : The point will be borne in mind when the question is decided.

ALLEGATIONS OF ILL-TREATMENT TO INDOOR PATIENTS IN THE DELHI CIVIL HOSPITAL.

842. ***Dr. Ziauddin Ahmad :** (a) Are Government aware of the allegations that ill-treatment is accorded to indoor patients in the Delhi Civil Hospital and illegal gratifications forcibly extracted from them ?

(b) Has the Director General of Civil Hospitals made an independent inquiry ?

(c) Who is the supervising authority of the Delhi Civil Hospital ?

Mr. G. S. Bajpai : Government have read such allegations in the Press and have made enquiries from the Local Administration. The result will be communicated to the House in due course.

TRIPS TO SIMLA OF THE DEPUTY ASSISTANT ELECTRICAL ENGINEER, POSTS AND TELEGRAPHS DEPARTMENT, NEW DELHI.

843. ***Mr. Muhammad Azhar Ali :** (a) Will Government please state :

(1) whether the Deputy Assistant Electrical Engineer, Posts and Telegraphs, New Delhi, proceeds to Simla ; if so, what is his business up there ;

(2) how often he has moved up hitherto, and since when ;

(3) what expenditure Government have been committed to hitherto, separately, in regard to (i) transport charges ; (ii) halting allowances ; and (iii) other incidentals, if any ; and

(4) what the average cost is per trip ?

(b) Is it true that these visits to Simla, were of a regular and uniform nature—month by month—throughout the year ? If so, what justifies the calls up at Simla, during the winter months ? Did the calls during the summer months have any significance ?

(c) Do the department retain permanently a qualified electrician or other such official at Simla ? If so, has he ever been found lacking in the due performance of his duties, or otherwise inefficient ? If so, how was the defaulting official dealt with ? Was any reduced, removed or discharged in the last five years ?

(d) Technically, what are the academic or other degrees or qualifications of the electrical official attached to the Simla Central Telegraph Office as compared with the Deputy Assistant Electrical Engineer of New Delhi ? If the qualifications of both the officers are identical, what purpose is served by the latter inspecting or examining the duties and

other functions discharged by the former ? How do Government profit by such visits ?

(e) Is it true, that the Divisional Engineer, Telegraphs, Delhi Engineering Division, enjoys almost a complete recess up at Simla during the entire Summer season ?

(f) Is it not a fact that the maximum benefits obtainable under the touring regulations and privileges have invariably been exploited time and again ?

(g) Are Government prepared to explore thoroughly the cause and justification of all such visits made hitherto separately and justify, individually, the need for such public expenditure, when it should have been necessarily avoided ?

Mr. T. Ryan : (a) (1) Yes ; for inspection of the telegraph equipment and electric light installations in post and telegraph offices in Simla which are in his charge.

(2) Since 1926 ; detailed information is, however, not available before 1930 when the officer visited Simla eight times, in 1931 four times and in 1932 twice.

(3) In 1930, transport charges—Rs. 472, halting allowance—Rs. 583 ; in 1931, transport charges—Rs. 236, halting allowance—Rs. 220 ; in 1932, transport charges—Rs. 138 ; halting allowance—Rs. 119. There were no incidental charges.

(4) About Rs. 125.

(b) No. Visits were made during the summer months only when the work was heavy. The second part does not arise.

(c) The reply to the first part is in the affirmative and to the second part in the negative. The other parts do not arise.

(d) Both officers have departmental training. The Deputy Assistant Electrical Engineer is a senior and more experienced officer and has consequently more technical knowledge.

(e) The Divisional Engineer is required to be in Simla for 90 days in the summer season.

(f) Certainly not.

(g) Does not arise in view of reply to (f).

NUMBER OF SUPERINTENDENTS OF POST OFFICES IN THE SIND AND BALUCHISTAN AND OTHER POSTAL CIRCLES.

844. ***Mr. Gaya Prasad Singh :** (a) Is it a fact that in Sind and Baluchistan, there are only three Superintendents of Post Offices, and that an independent Circle is being retained there ? What is the approximate annual expenditure ?

(b) What is the number of Superintendents in other Postal Circles in India ?

Mr. T. Ryan : (a) If the Honourable Member is referring to Superintendents in charge of Postal Divisions, the reply to the first part of the question is in the affirmative. The Circle is a minor circle and is in

charge of a Director whose status is lower than that of Postmasters General who are in charge of other Circles. As regards the second part of the question, the Honourable Member's attention is invited to part (f) (3) of the reply given in this House on the 26th January, 1931, to Mr. S. C. Shahani's unstarred question No. 48.

(b) If the Honourable Member refers to Superintendents in charge of Postal divisions, the number is as follows :

Bengal and Assam Circle	..	..	..	19
Bihar and Orissa Circle	..	..	..	8
Bombay Circle	..	..	..	12
Central Circle	..	..	..	9
Madras Circle	..	..	..	16
Punjab and North-West Frontier Circle			..	16
United Provinces Circle	..	..	..	13

Mr. M. Maswood Ahmad : Is it not a fact that the post offices in Baluchistan and Sind are scattered over vast areas as compared with other parts ?

Mr. T. Ryan : It is the case that the post offices are scattered over a large area.

PROPOSED VISIT OF MAJOR MILNER, M.P., TO MAHATMA GANDHI.

845. ***Mr. Gaya Prasad Singh :** (a) Will Government kindly state whether they came to know that the object of the proposed visit of Major Milner, M.P., to Mahatma Gandhi, was political in character ? If so, how did they come to know this ?

(b) Is political discussion of every kind prohibited between Mahatma Gandhi and his visitors ?

(c) Was a similar restriction imposed in 1930-31 when Mahatma Gandhi was in detention ?

The Honourable Mr. H. G. Haig : (a) The object of the visit was stated in Major Milner's application for an interview.

(b) Interviews have been confined to those who are not likely to discuss politics.

(c) That was the general position, but certain exceptions were made.

Mr. N. M. Joshi : May I know what was the object stated by Major Milner in his application ?

The Honourable Mr. H. G. Haig : The question was whether the object of the visit was political in character. Major Milner's application made it quite clear that that was the object.

Mr. Gaya Prasad Singh : Will Government place a copy of Major Milner's letter on the table ?

The Honourable Mr. H. G. Haig : I am not prepared to do that.

Mr. B. Das : Is it the opinion of Government that Major Milner was a dangerous character and, therefore, he should not be allowed to interview Mahatma Gandhi ?

The Honourable Mr. H. G. Haig : The question of visitors being dangerous characters does not arise. The point was that interviews were confined to those who were not likely to discuss politics.

Mr. B. Das : Is it not a fact that Major Milner is a follower of the Prime Minister, Mr. Ramsay MacDonald, and for that reason he ought to have been allowed the interview ?

The Honourable Mr. H. G. Haig : I am not aware of Major Milner's particular political connections, but the question is not whether Major Milner is a follower of the Labour Party, but whether he wishes to discuss certain political questions.

Mr. B. Das : Did the India Office supply statements to the Government of India about the antecedents of socialist M. P.'s who were members of the Lothian Committee ?

The Honourable Mr. H. G. Haig : I have seen no such information.

Mr. B. Das : Does that mean that the India Office is not doing its duty ?

The Honourable Mr. H. G. Haig : It is not part of the duty of the India Office to supply information which we can get by consulting "Who's Who".

Mr. N. M. Joshi : May I know, whether this restriction was intended to facilitate settlement with the Congress or obstruct it ?

The Honourable Mr. H. G. Haig : The object was to impede the development of the Civil Disobedience Movement.

SELECTION OF NEWSPAPERS AND PERIODICALS FOR THE DETENUS AT DEOLI.

846. ***Mr. Gaya Prasad Singh :** Will Government kindly state who made the selection of newspapers and periodicals that the detenues at Deoli (Ajmer-Merwara) are permitted to read ; and on what principle was the selection made ?

The Honourable Mr. H. G. Haig : The selection was made by the Government of Bengal and is understood to be in accordance with the practice followed in Bengal.

Mr. Gaya Prasad Singh : Are Government aware that in the list of periodicals, there are names of certain periodicals which have ceased to exist ?

The Honourable Mr. H. G. Haig : I was not aware of that, but I am perfectly prepared to take that piece of information from the Honourable Member and from Mr. Neogy.

12 Noon.

Mr. K. C. Neogy : Is the Honourable Member aware that in one particular case, not only the journal ceased to exist years ago, but that two successive editors of the journal are also dead ?

The Honourable Mr. H. G. Haig : But does the Honourable Member suggest that the views expressed in the Press become obsolete and that such papers lose their value completely after one or two years ?

Mr. K. C. Neogy : The list was intended to cover the cases of newspapers and periodicals that are at present published ?

The Honourable Mr. H. G. Haig : That no doubt is the primary object, but I have no doubt that if an application was made for the past files, a search would be made.

Mr. Gaya Prasad Singh : Is this a sample of the up-to-date information possessed by the Government ?

The Honourable Mr. H. G. Haig : It is possible, Sir, that the lists have not very recently come under revision.

MOTION *RE* TERRORIST OUTRAGE AT PAHARTALI, CHITTAGONG.

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Mr. President, it devolves on me to discharge a very painful and melancholy duty, but one which, I think, it is absolutely incumbent on this House and on all thinking persons in India to discharge. With your permission, Mr. President, I desire to make this motion :

“ This House desires to place on record its feelings of horror and its strong condemnation of the terrorist outrage perpetrated on the night of the 24th September at Pahartali and requests the Honourable the President to convey its deep sympathy with the families of the victims and the wounded persons.”

Sir, I do not intend to speak at any length on this motion. I however desire, with your leave, Mr. President, to bring to the notice of the Honourable Members of this House the main details or outlines of the occurrence. The first telegram that was received was that :

“ A party of terrorists armed with 476 muskets, revolvers, guns and bombs raided Assam-Bengal Railway European Institute at Pahartali, Chittagong, at 11 last night (*that is, at 11 P.M. on the 24th instant*) when social gathering was being held. Raiders threw bombs inside Institute killing one old European woman, and wounding Inspector MacDonald, Sergeant Willis and six other Europeans. Raiders escaped. The body of Pritilata Waddar, who has been missing since Dalaghat incident on June 14th when Captain Cameron was murdered and for whose arrest reward has been declared by Government, was found near Institute with bullet wounds. Dead girl who is about 20, graduated from Bethune College, Calcutta, this year.”

That was the first information that was received. Later on, we got this news :

“ Terrorists made sudden attack on European Institute last night at Pahartali in Chittagong. One European woman was killed and 8 Europeans are said to have been injured. Assailants escaped leaving behind body of a Bengali girl who died of bullet wounds in encounter.”

[The Honourable Sir C. P. Ramaswami Aiyar.]

It appears this attack was made when dancing was proceeding in the Institute (*Cries of "Shame, shame"*), and it also appears that the terrorists numbered about ten. Now, Mr. President, dealing with this matter and referring to this most saddening incident, H. E. the Governor of Bengal uses the following language :

" This most senseless and brutal crime resulting and apparently intended to result in killing and maiming defenceless women will shock all persons of decent feeling in Bengal, India and throughout world."

These, Mr. President, are the features of the incident which, I have no doubt, will shock and fill with horror all thinking India. (Hear, hear.) Let me, in the first place, make it abundantly clear—as clear as any statement made in this House can do—that this outrage is most uncharacteristic of India, of Indian civilization and Indian culture (Hear, hear) and unworthy of India (Hear, hear) ; and not only it is uncharacteristic and unworthy of India, but it is as detrimental to the highest interests as it is opposed to the fundamental ideals of this ancient land of hoary traditions. (Loud and prolonged applause.) Moreover, Sir, it is bound to bring about such racial hatred, such feelings of exacerbation, such possibilities of dangerous and terrible reprisals, that I shudder to think of what the outcome may be. Sir, Members on all sides of this Honourable House are playing their great part in the evolution of a new constitution when India will come to her own. As part of that responsibility and the duty owed by men of feeling and sensibilities, let us make it clear, let us make it manifest that we are horror-struck at incidents of this kind, and that we denounce these crimes and the motives of these misguided criminals with no uncertain voice and that we deeply sympathise with the victims and their families. (Loud and prolonged Applause.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I and my party associate ourselves with every word that has fallen from the Honourable the Leader of the House. We think that acts of this character are not the acts of mere revolutionaries, but those of maniacs as they make no distinction between men and women and women and children. Sir, we, as representatives of the country in this central representative institution in the land, denounce these acts as acts which are not only brutal, unjustified, cruel and sinful, but acts which, in the end, will delay and arrest the steady growth of responsible institutions in this country. (Loud applause.) Sir, our sympathies go out to the innocent victims of this senseless and dastardly outrage, and the least we can do, Sir, is to request you to convey to the relations of these victims and to the wounded our heartfelt condolence and sympathy. (Loud Applause.)

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadian Urban) : Sir, on behalf of my Party, I endorse all that has been said by the Leader of the House in respect of the recent dastardly outrage at Chittagong. Sir, there cannot be the least doubt that outrages of this character must be revolting to the feelings of every right-thinking person. Sir, as one, associated for a long time with the practice of law and the administration of justice, I do regard every murderer, every outrage committed, as criminal, whatever may be the motive inspiring it. Sir, as pointed out by the Leader

of the House, outrages of this kind, which have racial motives behind them, cannot be condemned too strongly ; and it is my firm conviction that these outrages cannot advance the political interests of India in any way. (Loud Applause.)

Mr. G. Morgan (Bengal: European): Sir, on behalf of the European Group, representing the European community in India, I wholeheartedly support the Resolution moved by the Honourable the Leader of the House.

I am sure this Honourable House will understand that it is very difficult for me to speak without a certain amount of heat in this particular matter, this particular outrage in Chittagong. But I will do my best to moderate my language, however strongly I may feel in this matter.—As it has been designated by the Governor of Bengal, it is a senseless and a brutal crime. The gathering where this bomb was thrown was a social gathering, people lightheartedly enjoying themselves the last day of the week, a Saturday. There is no excuse for these crimes under any circumstances, and there is certainly no excuse for a crime of this description which was perpetrated on Saturday night, the 24th instant. I agree with the Honourable the Leader of the House, when he says, that this crime was not only diabolical, but that, it is contrary to the characteristics and the traditions of the people of this great country. (Applause.) Sir, I may tell the House that this sort of crime—and my experience in Eastern Bengal has been a very long one—has been perpetrated in increasing intensity since 1904. This revolutionary movement has been getting worse and worse, and there is no doubt that it is one of the worst things that could happen at the present moment when we are all endeavouring to find a way by which constitutional changes can be brought about. But, Sir, this sort of crime will unbalance even the most sane mind. However sane one may be, crime of this description raises feelings which is designated in our language by “seeing red”, and that is a feeling we do not want to see raised in this country. We do not want these communal and racial feelings raised. How are we going to carry on when this sort of crime is being perpetrated? I hope this House will endorse unanimously and wholeheartedly the Resolution which has been moved and if the Government of India require special powers, however drastic, to deal with particularly these outrages and revolutionary movements, we shall be prepared to give them.

Kunwar Raghubir Singh (Agra Division : Non-Muhammadan Rural): Sir, it is my melancholy duty to associate myself and my Party, I mean the United India Party, in supporting the motion moved by the Honourable the Leader of the House. No words can be too strong to condemn such outrages as are perpetrated in the name of terrorism, especially in Bengal, these days. We have been very much shocked to hear that such acts have not yet stopped in spite of the best efforts made to stop them. It is absolutely un-Indian and particularly at a time when the great Indian leader is fasting and preaching non-violence. Sir, with these words, I hope that the House will carry the motion unanimously.

Mr. A. H. Ghuznavi (Dacca *cum* Mymensingh : Muhammadan Rural): Sir, we, the Members sitting on these Benches, associate ourselves entirely

[Mr. A. H. Ghuznavi.]

with what the Honourable the Leader of the House has said. It is our first and foremost duty to convey to the bereaved families our profound sorrow and deepest sympathy in their bereavement. No words of ours, no human sympathy, could console them in their affliction, but when they will know that to-day India mourns deeply and sincerely their loss, and when they will know that the House passes this Resolution unanimously, it will undoubtedly lighten the burden of their grief. Sir, bombs and revolvers are the weapons of cowards and criminals. Those who make use of them cannot have any conception of true patriotism. Need I say, Sir, to these misguided youths that resort to bombs and pistols, instead of advancing the cause of our motherland, hopelessly retards her constitutional progress. Sir, we should not content ourselves with only condemning the action of the perpetrators of these crimes, but should strongly condemn and denounce those who, by their writings, by their actions, and by their speeches, extol these deeds of violence, and eulogise the assassins as saints, martyrs, heroes and patriots. Nor can we exonerate the Government from the charge of apparent inaction, weakness and vacillation which are equally responsible for these murders and anarchical crimes. Sir, here is a paper *The Star of India* which has given to us....

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, are we discussing the Ordinance Bill ? The Leader of the European Group has already insulted us....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order. The occasion is such that it is desirable not to introduce any controversy.

Mr. A. H. Ghuznavi : Sir, with your permission, I would just mention this that very recently in Calcutta a terrorist leaflet was posted throughout the City of Calcutta asking every Indian to murder Europeans, men and women. Not only that, they went further and said that whoever of the Indians supported the Government should be murdered also. With these words, I associate myself wholeheartedly with what the Leader of the House has said, and I support the Resolution.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Sir, the occasion is too serious to enter into any controversial discussion. I join wholeheartedly with the Leader of the House and with other Honourable Members who have just spoken in condemning unreservedly the terrorist outrages which have been blackening the face of this fair country. (Applause.) Sir, while condemning these outrages, I very strongly deprecate this occasion being utilised by some henchmen of Government in bringing any controversial politics into the discussion.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair very much regrets that on a solemn occasion like this any views or sentiments should be given expression to which do not bear directly on the motion that the Honourable the Leader of the House has placed before the House.

Mr. Gaya Prasad Singh : Quite.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : In the opinion of the Chair, sufficient discussion has taken place and in putting the motion to the House, the Chair wishes to associate itself with all that has fallen from Honourable Members, especially having regard to the real interests of our Motherland. (Hear, hear and Applause.)

The question is :

“ This House desires to place on record its feelings of horror and its strong condemnation of the terrorist outrage perpetrated on the night of 24th September at Pahartali and requests the Honourable the President to convey its deep sympathy with the families of the victims and the wounded persons.”

The motion was adopted unanimously.

BILLS PASSED BY THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

“ I am directed to inform you that the Council of State has, at its meeting held on the 23rd September, 1932, agreed, without any amendment, to the following Bills which were passed by the Legislative Assembly at its meetings held on the 12th, 14th and 16th September, 1932, namely :

1. A Bill further to amend the Indian Emigration Act, 1922, for certain purposes,
2. A Bill further to amend the Cantonments Act, 1924, for a certain purpose,
3. A Bill to amend the Ancient Monuments Preservation Act, 1904, for certain purposes,
4. A Bill to amend the Trade Disputes Act, 1929, for certain purposes, and
5. A Bill to establish committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz.”

STATEMENTS LAID ON THE TABLE.

CASES IN WHICH THE LOWEST TENDERS HAVE NOT BEEN ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA IN PURCHASING STORES FOR THE GOVERNMENT OF INDIA.

Mr. A. G. Clow (Government of India : Nominated Official) : I lay on the table a statement furnished by the High Commissioner for India showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half year ending the 30th June 1932.

HIGH COMMISSION

INDIA STORE

ABSTRACT OF CASES in which tenders for stores demanded by the Central Gove
goods demanded, were accepted on the grounds of superior quality,
inspection, quicker

HALF-YEAR ENDING

Stores ordered.	Contract number.	Name of Contractor.	Amount of Contract.
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PART A.—Cases in which lower foreign tenders, including British tenders for foreign

Nil.

PART B.—Cases in which the discrimination is

			£ s. d.
Levels, wood No. 445	M. 2706/4767/4-2-32	Maple & Co., Ltd. ..	355 12 9 (British).
Essential oils, 1891 lbs.	N. 438/710/7-6-32	Potter and Clarke, Ltd.	475 5 6 (British).

PART C.—Cases in which the Discrimina

Nil.

PART D.—Cases in which lower British tenders have

			£ s. d.
Peptone powder, 72 lbs., etc.	N. 324/526/20-5-32 ..	Hopkin & Williams ..	50 2 0 (French).

ER FOR INDIA.

DEPARTMENT.

rnment, other than the lowest complying with the technical description of the superior trustworthiness of the firm tendering, greater facility of delivery, etc.

30TH JUNE, 1932.

Lowest Tender not accepted.	Reason for acceptance.
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made goods, have been set aside wholly or partially in favour of British tenders.

Nil.

between British firms only.

£ s. d.	
313 7 1 (British).	The indent stated that the levels were required in India as early as possible before 31st March, 1932. The lowest tenderer offered delivery in 16 weeks. The order was therefore placed with the next lowest tenderer who undertook to deliver in 8 weeks.
471 7 6 (British).	The order was placed with the second lowest tenderer in order to obtain the delivery required.

tion is between Foreign firms only.

Nil.

been set aside in favour of foreign tenders.

£ s. d.	
44 2 6 (British).	Accepted on account of the superior quality of the chemicals offered which represented more than the difference in price between the two quotations.

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands) : I lay on the table a statement containing the further information promised in reply to question No. 599 asked by Mr. Nabakumar Sing Dudhoria on the 2nd March, 1932.

599. INDIANS SENT ABROAD ON DEPUTATION FOR THE STUDY OF SUGAR CULTIVATION AND MANUFACTURE.

(1) Names of Indians deputed by different Local Governments.	(2) Qualifications.	(3) Country to which deputed.	(4) Amount spent.	(5) Manner in which those already returned are now employed.	(6) Manner in which those who have not yet returned are proposed to be employed.	(7) Names of Sugar Mills or Com- panies that have employed such experts from abroad.
Mr. A. R. Yathiraja	B.Sc. Underwent two years' course in General and Applied Chemis- try.	United Kingdom Hawaii and Java.	MADRAS. Scholarship of value of \$200 per annum for period of 15 months <i>plus</i> \$220 on deputation to Hawaii and Java.	Now conducting re- search in sugar manufacture in the Bellary District.	..	..
Rao Bahadur P. C. Patil.	L. Ag. M.Sc. (Wis)	Java	BOMBAY. On study leave .. Amount not known	Professor of Agri- cultural Econo- mics at the Poona Agricultural Col- lege.	..	..
Mr. R. G. Padhye	B. Ag. ..	U. S. A., Cuba, Porto Rico, Barbadoes, Jamaica, Hawaii and Java.	Scholarship of \$100 p.m. for two years <i>plus</i> tuition fees, travelling expenses and return passage.	Chief Chemist in the Belapur Com- pany's Sugar Fac- tory at Harigaon in the Ahmednagar District.	..	..

Mr. R. G. Pradhan	B.Sc. ..	..	U. S. A. and Cuba ..	Scholarship of £300 per annum inclusive of fees, etc., p.a. for 2 years plus return passage.	Chemist in the New Savan Gur and Sugar Factory in Bundhelkhand and Oudh.	..	..
Mr. R. C. Sivastava	B.Sc.	..	United Kingdom in 1911.	UNITED PROVINCES. £300 plus passage money.	Sugar Technologist Imperial Council of Agricultural Research.	..	The Cawnpore Sugar Works. The Pachrakhi Sugar Mills, Gorakhpur.
Mr. A. R. Khan ..	Matriculate	..	United Kingdom and West Indies.	£450 plus passage money.	Lecturer at the Harcourt Butler Technological Institute, Cawnpore.	..	Empire Engineering Company, Cawnpore.
Mr. Krishna Lal ..	Do.	..	United Kingdom ..	£300 plus passage money.	Not known ..	..	..
Mr. P. D. Kapur ..	Studied up to B.Sc. standard.	..	United Kingdom and British Guineæ.	£450 plus single passage.	Not known ..	..	..
Mr. Raza Hussin	B.Sc. Diploma in Applied Chemical Research.	..	United Kingdom ..	£480 plus passage money.	Sole representative to Messrs. Duncan Stewart & Co., Ltd.	..	..
Mr. Khwaja Mohd. Ismaq.	B.A. ..	..	Do. ..	Rs. 2,500	Believed to be in the service of Raja of Nandgaon, C. P.	..	..
Mr. K. K. Bhargava	B.Sc. Diploma in General Chemistry.	..	Do. ..	£480 plus passage money.	Chief Chemist and Sugar Manufacturer at the Sonapat Factory of the Punjab Sugar Corporation, Limited.	..	Noori Sugar, Works Bhatni, Gorakhpur.

(1) Names of Indians deputed by different Local Governments.	(2) Qualifications.	(3) Country to which deputed.	(4) Amount spent.	(5) Manner in which those already returned are now employed.	(6) Manner in which those who have not yet returned are proposed to be employed.	(7) Names of Sugar Mills or Companies that have employed such experts from abroad.
Mr. H. L. Bhagat..	M.Sc. (Chemistry)	U. S. A. and Europe	PUNJAB. Total amount not yet known.	Not yet returned ..	Under the terms of the Security bond executed the scholar will devote himself exclusively to the sugar industry.	..
Mr. S. C. Jain ..	B.Sc. (Sugar Technology).	University of Hawaii Honolulu.	Bihar and Orissa. Scholarship and fees £870. Passage money and railway fare Rs. 1,712. T. A. to San Francisco, \$300.	Messrs. L. H. Brothers, Sugar Factories, Pilibhit, United Provinces.	..	Originally employed with Messrs. Noori Sugar Works Bhatnagar, United Provinces.

NOTE.—Other Local Governments have not made any such deputations.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Legislative Business. Further consideration of the following motion moved by the Honourable Mr. H. G. Haig on the 21st September, 1932 :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne, and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. N. N. Anklesaria (Bombay Northern Division : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st November, 1932.”

Sir, my motion is not a dilatory motion as I shall show presently and I would ask the Honourable the Home Member to do me the honour of believing that my intention in moving this amendment is not to defeat or delay this Bill, but to advance it.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Please do not apologise.

Mr. N. N. Anklesaria : Sir, I move this amendment with the greatest reluctance possible.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Naturally. (Laughter.)

Mr. N. N. Anklesaria : But I believe that, in moving this amendment, I am performing a duty to my constituency. Sir, ever since I have had the honour of being a Member of this House, I have consistently followed one policy, at least as regards questions of law and order, the policy of helping the Government (Hear, hear) whenever I can, and of opposing the Government whenever I must. I have never run with the hare and hunted with hound, and I regret very much the un-accommodating attitude which the Honourable the Home Member has taken up in connection with this amendment, an attitude, Sir, all the more regrettable, because it is not justified by a single solid reason of which I can think of. Sir, I take it that, for some reason or other, the Government are anxious to see that the Bill is passed by the end of the November Session. I believe, that the November Session will begin sometime about the 7th November. I have, therefore, fixed the date in my amendment by which opinions are to be elicited as the 1st November.

An Honourable Member : By wireless.

Mr. N. N. Anklesaria : An Honourable Member exclaims, if the opinions are to be elicited by 1st November by wireless. Sir, no wireless is required. One month and ten days are quite sufficient as I will show, later on, for people and bodies to send in their opinions to the authorities and for the authorities to consider them. Sir, I have fixed the date as 1st November with this view that on 7th November or, soon after the 7th November, a Select Committee may be appointed and the

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opinions received by that time may be considered by the Select Committee and that they may be able to make their report by such a date as would enable the Government to take the Bill through all its stages before the end of the Session. Sir, I can quite realise the view point, as I take it, of the Honourable the Home Member also. The Bill seeks to embody certain existing laws, in our permanent Statute-book, laws some of which have been before the public for the last 23 years, and Ordinances which have been before the public for at least the last 10½ months. And it may be asked, when the matter has been before the public for so very long a time, why do you want to circulate further and what is it that you want to circulate? This, no doubt, is a valid question to ask, but, I am afraid, it takes no account of the professional agitator who never misses a chance of misrepresenting the action of the Government and of creating misunderstandings.

Sir, when the Ordinances expired some four months and a half ago, few, even of the Government's supporters, believed that Government would think fit to promulgate a consolidated Ordinance. On the publication of that consolidated Ordinance, Sir, there were very few important towns in my constituency in which meetings were not held condemning the promulgation of the Ordinance and calling upon the elected representatives of the people in the local and Central Legislature to move for their immediate repeal. I may assure the Honourable the Home Member that the promulgation of the Ordinance has created a very deep feeling of discontent among the politically-minded classes of all shades of opinion, at least so far as my constituency is concerned. Men felt that the executive has been usurping the functions of the Legislature and the promises, made at the time of the reforms, have been flagrantly violated, and that what the British Government gave with one hand, they have been taking away with the other, by the promulgation of this Ordinance. Let it not be said, Sir, that Government have been resorting to methods which are not justified by the constitution which has been given to this country. And let it not be said that any individual or body of persons was denied an opportunity of giving his or their views on the present Bill and making suggestions and criticisms with regard to it. Sir, personally I believe and I feel convinced that no valid criticisms can be levelled against the provisions of the present Bill, as I propose to show later on; but, as I said, the object of my amendment is to prevent the professional agitator from exploiting the situation which has been created by the Ordinances. Why not put Government on the right side with the people and the agitator on the wrong side? I said, Sir, that I myself feel personally convinced that no valid criticism could be offered to the provisions of this Bill. But I have not the monopoly of political wisdom and I hope Government will agree with me that they also have not that monopoly on their side. Again, Sir, the maxim "*audi alteram partem*" is a maxim which holds in the field of law as well as in the field of politics. (An Honourable Member: "What does this mean?") For the edification of my Honourable friend, Mr. Joshi, who asks me what the maxim means, I may say that it means, "hear the other side". Sir, the course which I have suggested will not involve any undue delay and Government will be able to get their Bill passed by the time they desire to see it passed. That being the case, I fail to understand why the Honourable the Home Member should not accede to my

request. Is it possible that the Honourable the Home Member, in taking up the attitude which he has taken up, is counting on the support of his Government block and on the thinness of the Opposition ranks ? It is quite possible, I should say, it is more than probable, that my amendment will be defeated, but the victory of Government will be worse than a barren victory, and I feel it will invite more trouble for the Honourable the Home Member in the next Session than he has any idea of. Sir, I have not been in the habit of speaking in this strain, but I feel that public interest requires that I should speak out what I sincerely feel on the present question. I warn the Honourable the Home Member against alienating moderate opinion, for on moderate opinion the British Empire stands. Antagonise that opinion and the Empire will have very little to rest upon. The Treasury Benches have never been tired of appealing to this House for co-operation, and, I believe, I can say this, with the greatest possible reason, that so far as I myself am concerned, that appeal has never been made in vain. Shall I then, in my turn, make the same kind of appeal to the Treasury Benches on the present occasion in vain ?

Sir, there are some eight different amendments to this motion of the Honourable the Home Member, differing as regards the dates by which opinion is to be elicited. Of those dates the date mentioned in my amendment is the shortest, and I have fixed that short date with a view, as I said, to enabling Government to get their Bill through by the end of the next Session, for, I believe, that the Bill is in the interests of our country and should be passed into law at the earliest date possible....

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Is that also liberal and moderate opinion ?

Mr. N. N. Anklesaria : I shall now proceed, as shortly as I may, to give my reasons for the view which I have just mentioned as well as the reasons why my amendment, which seeks to advance the purpose of this Bill, should be preferred to the dilatory amendments which possibly seek either to defeat or delay the Bill. Last January Session, we met in a somewhat tense atmosphere. The Governor General had been promulgating Ordinances, one after another, in quick succession and Honourable Members of this House, as well as a large majority of the politically-minded people outside this House, came to believe that the executive was usurping the functions of the Legislature and what the feelings of several Members of this Honourable House were on the question will be seen from a few extracts which I propose to read from the debates in this House on the Resolution moved by my Honourable and esteemed friend, Sir Hari Singh Gour, on the 1st of February last. At page 314 of the Debates is found a speech by my Honourable and venerable friend, Diwan Bahadur Harbilas Sarda ; he says :

“ The first point to which I draw the attention of this House is the perfect non-chalance with which Government have ignored every legitimate interest and the utter contempt with which Government have treated the most authoritative body established by law in this country, the Legislative Assembly. Eleven years ago with a flourish of trumpets and the fanfare of bugles, the British Government declared that in gratitude for the invaluable help given by India to England in her hour of need, England had changed its angle of vision and was going to divest itself of all legislative authority with regard to the administration of the country, and that it had established a Legislative Assembly with an elected majority for making the laws of the country. But what is the fact now ? Ordinance after Ordinance, the succeeding one going further than the preceding one, has been promulgated, and though the

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Legislative Assembly has been summoned, the Government have refused to place before the Legislative Assembly the subject matter of these Ordinances for legislation. Does this not show the people the unreality of the whole thing?"

I will read one more extract and that is from the speech of my Honourable friend, Diwan Bahadur Mudaliar, on the present topic. At page 244 of the Reports he says :

" I ask this House, unless it wants to commit political suicide, unless it wants to be the ridicule of the whole country and of foreign countries as well, unless this Parliament of India, as it is proudly called, is to go down to history as a sort of absolutely innocuous and absolutely invertebrate House that will not assert its own dignity—not for the sake of the Congress, not for the sake of the civil disobedience movement, but rather against the Congress and in fighting the civil disobedience movement,—then I exhort this House to ask for those powers which you must legitimately exercise so that this movement in the country may be fought by your own countrymen and not by the alien gentlemen sitting there, acting as they please."

That extract very well reflects the feelings of the non-official Members of this House.

An Honourable Member : Speak for yourself.

Mr. N. N. Anklesaria : So far as I remember, not a single Member of this House doubted that the Congress activities must be dealt with and law and order vindicated. But we all felt that the method of dealing with the Congress activities by Ordinances was the wrong method of doing the right thing and also involved the usurpation of our own proper functions ; and the non-officials agreed together to bring this view of theirs to the notice of the Government and the result of their joint deliberations was the Resolution moved by my Honourable friend, the Leader of the Nationalist Party, on behalf of, I believe, almost all non-official Members on the first of February last. The gravamen of the complaint of non-official Members was, as I said, that the Government were usurping the functions of this Honourable House in legislating over our heads by Ordinances and the Resolution recommended :

" To the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act."

All my Honourable friends who have tabled amendments to the present motion supported and voted for that Resolution. I myself did not vote for the Resolution, but I wholeheartedly supported the protest of my Honourable colleagues on the non-official Benches and their recommendation to Government to bring in a Bill to replace the Ordinances. In accordance with our invitation and, in accordance, I would say strict accordance, with our wishes, the Government have brought forward the present Bill, and would it lie in the mouth of any Honourable Member, who supported that protest and that recommendation, to disapprove of the Bill now ?.....

Mr. Gaya Prasad Singh : Is that your logic ?

Mr. N. N. Anklesaria : I say, Sir, ordinary decency of Parliamentary debate and bare regard for principle of consistency would prevent one from taking such a somersault, and I trust none of my colleagues on this side of the House will attempt it.

Mr. Gaya Prasad Singh : Which side ? Government side ? (Laughter.)

Mr. N. N. Anklesaria : That is my first reason for the view I have expressed. My second reason is based on the merits of the Bill and, here, with your permission, Sir, I shall take leave to congratulate the Honourable the Home Member on the great speech which he made the other day in support of the Bill. I do say, Sir, it was a great speech, perhaps it will be classed as the greatest speech of the present Session.

Shaikh Sadiq Hasan (East Central Punjab : Muhammadan) : Still it left you unconvinced ?

Mr. N. N. Anklesaria : To me it was a happy augury that an Honourable Member on the Treasury Bench was reading Carlyle's French Revolution and benefitting by that reading. Sir, as many Honourable Members will take opportunity for congratulating the Honourable the Home Member, I shall not pursue that topic any further.

Now, coming to the Bill itself, it seeks to make certain permanent additions and changes in the substantive as well as the procedural law of the country, the object of which is to control and defeat the civil disobedience movement. With that view, firstly it adds five offences to the Penal Code and one offence to the Police Act of 1922, making certain activities specially connected with the civil disobedience movement penal. Secondly, it seeks to amend the Criminal Procedure Code so as to give or enable the Executive to give powers of arrest and detention to the police and to the public by making new offences and certain other offences existing in the Penal Code both cognisable as well as non-bailable. Thirdly, the Bill contains provisions which strike at unlawful associations, and, fourthly, there are provisions which impose vicarious liability on parents and guardians for the offences of young persons. Lastly, Sir, the Bill makes additions and changes in the Press Act of 1931. Sir, it is noteworthy that in no case does the punishment provided exceed one year, and in all cases alternative punishment of fine is provided. It is also noteworthy that there is no clause of indemnity in favour of executive officers except in the case of the seizure and forfeiture of property of unlawful associations.

Now, Sir, if you recall the history of the civil disobedience movement during the last as well as the present year, you will realise that the provisions of the Bill seek to provide for circumstances which have actually arisen either in furtherance of the civil disobedience movement or as integral parts of it. The provisions seek to meet methods and measures which the Congress has actually adopted to create disorder and paralyse

Government. Sir, I am sure that every Member of
 I r.w. this House has either personal knowledge or has learnt how the Congress has been tyrannising over petty Government servants, terrorising witnesses.....

Mr. B. Das : Have you got any definite proof for that ? You are slandering the Congress, and the Congress is not here.

Mr. N. N. Anklesaria : Please speak a little louder so that I may answer you.

Mr. B. Das : Don't slander.

Mr. N. N. Anklesaria : I have got statistics here to show that everything which I am stating in this House is supported by facts, and I make a present of those statistics to my Honourable friend, Mr. B. Das, if he wants them.

Mr. B. Das : Speak out here.

Mr. N. N. Anklesaria : Sir, who does not know the misdeeds of the *Vanara Senas*, the armies of monkeys as they are called ? They were troops of school children organised by the Congress to tyrannise over shopkeepers and other law-abiding citizens.

Mr. B. Das : How much did you pay to the Congress funds when the *Vanara Senas* came to your place ?

Mr. N. N. Anklesaria : Please speak up.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order. If the Honourable Member wishes to accept the interruption, he should resume his seat. If he does not wish to give way, he may go on with his observations.

Mr. N. N. Anklesaria : Now, Sir, a law, which is designed to give the much needed protection to our public servants and protect the law-abiding citizens from the Congress tyranny, must meet with all support from all right thinking men, and I think that the Government would be failing in their primary duty if they did not seek powers, such as the present Bill seeks to confer on them, at the earliest possible opportunity.

But then, it is said, that the primary rights of personal liberty and freedom of speech are assailed. Now, Sir, I say that personal liberty is good, and freedom of speech is good, but public safety, the safety of the State, under which alone society can exist and progress, must be the supreme consideration of all patriotic citizens. In times of danger, national danger, such as we see in India to-day, legislation like the present Bill becomes an imperative necessity, and, Sir, I would challenge any opponent of this Bill to point out one single civilised country in which conditions of stress and strain, such as obtain in India, have not been met by legislation like the present Bill—in many cases, as I am in a position to show, far more stringent, far more summary, than the present Bill.

Sir, not to go back in history to the French Revolution and the Napoleonic periods, I would just ask the House to consider how a situation like the present one in India was dealt with last year and is being dealt with to-day under the free and democratic constitution of Spain and in the Irish Free State—an example which my Honourable friends on the other side have never been tired of citing. Only last year, the Irish Free State passed the 17th Amendment to the Irish Constitution. Under that Amendment, the executive, without the least consultation with the Legislature, can set up a special tribunal, not of civil judges, but of five military men. And the tribunal so set up is subject to no interference, no restraint, from any ordinary Courts, including the High Court. The tribunal can sentence a man to death for the common misdemeanour of preaching a no-rent campaign or instigating boycott of public servants. That Amendment provides for every offence, which the executive can certify as being an act which is done with the object of imperilling or impeding the machinery of Government or impeding the administration of justice, to be punished with death.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : By whom was that tribunal constituted—the one you are referring to ?

Mr. K. C. Neogy : There the executive is responsible to the Legislature ; it is not a foreign Government.

Mr. Gaya Prasad Singh : That makes all the difference. You must understand that.

Mr. N. N. Anklesaria : If the executive so judges, a man can be sentenced to be hanged for preaching boycott or non-payment of taxes. Associations can be declared unlawful and public meetings prohibited at the sweet will of the executive. And, as regards the evidence on which the tribunal can act, the bare word of a policeman is enough to send a man to the gallows, and the right of cross-examination and the production of rebutting evidence is denied to the accused.

Mr. N. M. Joshi (Nominated Non-Official) : You want to create an Ireland in India ?

Mr. N. N. Anklesaria : I was looking at my Honourable and esteemed friend, Sir Hari Singh Gour, to see if he was gasping for breath, an operation which he said he performed last Delhi Session, as he said, when he read the provisions about the vicarious liability of parents and guardians in respect of offences of young persons which are provided for in the Ordinance, on which he was then thundering, and the provisions of which are reproduced in clause 8 of the present Bill. My Honourable and esteemed friend, Sir Hari Singh Gour, when he was addressing this House on the 1st of February last, said that this doctrine of vicarious punishment, as embodied in the Ordinance, was a most extraordinary law that he had ever seen and, with a triumphant flourish of his hand, he asked the Government Benches whether such a law could be found in any civilised country. My Honourable friend need not have gone in search of such a law beyond his own home. Long before he was indulging in such empty rhetorics, the Central Provinces Government had actually passed the Central Provinces Children's Act, which contains provisions absolutely similar to those contained in clause 8 of the Bill.

(Interruptions from some Honourable Members.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I should like to draw the attention of Honourable Members to the fact that this appears to be an occasion for long speeches and interruptions will serve to make those speeches longer.

Mr. N. N. Anklesaria : It is said against the Bill that the executive will abuse their powers. I have statistics on this question. From the reports which we have been hearing of wholesale and indiscriminate arrests by the police, one would think that there must have been hundreds of thousands arrested. So far as the Bombay Presidency is concerned, out of a population of 22 millions, there have been, since the beginning of the movement up till the 1st of March last, only 5,165 arrests in connection with the civil disobedience movement and, of this, only 1,500 have been under the Ordinance. I will give another example of "the abuse" charged against the executive. The Newspaper Incitement Act of 1908 was passed to meet the exigencies of the situation created by the Bengal Partition agitation. That Act was repealed in 1921 and, during the 14 years of its existence, it was availed of only nine times. If that is an

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abuse of the powers by the executive, I would make a present of that instance to my Honourable friend on the other side. Sir, I believe there are about a thousand District Magistrates and District Superintendents of Police who have to administer law and order and, if a few mistakes are made out of over-zeal or error of judgment, is there anything to wonder at? Lastly, Sir, it is said that this policy of repression will do no good. It has never succeeded in history and will never succeed here. As regards the teaching of history I quite agree with the view expressed, but I ask what is repression? Is protecting law-abiding citizens, is protecting public servants in the discharge of their duties, is that repression? If that is repression, Sir, I would welcome such a repressive policy wholeheartedly and without the slightest possible hesitation. I do believe that, of all the civilised countries in the world, this country is a country where there is the least possible reason for inordinate agitation and it will be easy for me to support myself with the dicta of men greater than any who are now adorning those Benches there. Sir, at the discussion on the Press Bill last Simla Session, I believe my Honourable and esteemed friend, Sir Hari Singh Gour, claimed to have seen the handwriting on the wall. I also see the handwriting on the wall. Sir, the moral disintegration which continued contempt and disregard of law and order always brings in its wake can be followed by chaos only and remedied by despotism alone. Such is the teaching of history and for an example you need not go further than the Ireland of to-day. Under its very democratic constitution, Ireland has not attained the millenium. Far from it. And, in our own country, I would ask the House to consider the history of the City of Bombay during the last few months. I say the incidents that have taken place in that city are a disgrace to any civilized community. But I know that Government cannot be held responsible for that; it is the moral disintegration brought about by the Congress propaganda which has removed all fear and all restraint from the minds of the ordinary people in the matter of law and order which has been responsible for the happenings in Bombay. (Loud Applause from some Benches.) Sir, before concluding, I would ask my Honourable friends on that side to eschew all sentiment and to judge whether the Bill does meet and cope with the necessities which have caused it to be brought on the floor of the House.

Mr. Gaya Prasad Singh : Then why do you want circulation?

Mr. N. N. Anklesaria : If you think that this Bill meets those necessities, then by all means support it and show to the world that this is a House of practical legislators (Hear, hear) who, while being strict adherents of all constitutional methods of political advancement, are no friends of sedition and anarchy. Sir, before resuming my seat I would like to make one more appeal to the Honourable the Home Member to accept my amendment, and not to flout public opinion as his attitude would seem to do. Sir, I would appeal to him to co-operate with this side of the House and to remember that, so far as I am concerned at least, appeals from his side for co-operation have never been made in vain. (Hear, hear.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment proposed :

“That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st November, 1932.”

The Assembly then adjourned for Lunch Till Thirty-Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty-Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Mr. President, like the previous speaker, I too have got a duty to discharge on behalf of my constituency. I have got another duty also and that is the duty on behalf of the country. In the discharge of that duty, a higher duty, I have no hesitation in opposing this Bill. Sir, I have asked for the circulation of this Bill to elicit public opinion, because I want to take the opinion of the country with me in opposing the introduction of this Bill. My Honourable friend, Mr. Anklesaria, has congratulated the Honourable the Home Member on the main speech he made. I join him heartily in congratulating the Honourable the Home Member for the brilliant speech which he has made. It was brilliant from the point of view of diction, from the point of view of erudition and from the point of view of delivery. In fact, it was the best speech of the Session. But, Sir, when you come to the reasons which he has unfolded for justifying this Bill, I have to differ from him. When I was listening the other day to the speech of the Honourable the Home Member, I remembered a fable which I read in my boyhood and, I am sure, every Honourable Member of this House knows it. But I had never perceived the moral of that fable with as much perspicacity as I did the other day when the Honourable the Home Member made his speech. Sir, it is the fable of a wolf and a lamb. The wolf wanted to devour the lamb and wanted some reason for doing so. He said to the lamb : " You have polluted the water that I have been drinking ". The lamb said : " Sir, I am drinking at the lower end of the stream and it is impossible for me to pollute the water, because you have been drinking at the higher point in the stream ". Then the wolf said : " No, no ; it is one and a half years when you did pollute it, not to-day ". Then the lamb said : " I was born only a year ago and so I could not possibly have polluted the water one and a half years ago ". Then the wolf said : " No, no ; it is your mother that polluted the water when you were in her womb ". And he devoured the lamb. Sir, the same reasoning applies to the speech of the Honourable the Home Member. The Honourable Member says : " I am introducing this Bill to put down the civil disobedience movement ". But we say that the civil disobedience movement has already been put down in the words of His Excellency the Viceroy. He then says : " No, no ; it is the recrudescence of it that we are aiming at ". Then we say : " If the Government remove the root cause, namely, if the Government fulfil their pledge of giving us responsibility as early as possible, then the civil disobedience movement will be removed once and for all. There will be absolutely no recrudescence ". Then he says : " There is some truth in what you say, but don't you see the history of Russian and French Revolutions ? Immediately before handing over the Government from one hand to the other, we find that the revolutionary principles and ideas do come up, and we want to guard ourselves against those contingencies. That is the reason why we want this Bill to be placed on the Statute-book ". Sir, I will deal with the arguments *in seriatim* subsequently. All I wish to say now is that the Honourable the Home Member had to go back to the Russian and French Revolutions to justify the introduction of this Bill in this House. He wants to apply the moral of that fable to the

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present-day situation. Thus, I maintain, Sir, that the mentality of the proverbial wolf must be at the back of the Government when they introduced this Bill.

Now, what is this Bill ? What is the nature of this Bill ? Sir, it is the quintessence of the various Ordinances that were promulgated from the beginning of this year to put down the civil disobedience movement. The Honourable the Home Member said that there was the no-tax campaign in the United Provinces and revolution in the North-West Frontier Province and Mahatma Gandhi, as soon as he returned to India, revived the civil disobedience movement and so they had to put down the movement. Sir, at this time and, on this occasion, I do not want to enter into the vexed and moot question whether if Mahatma Gandhi had been allowed an interview with His Excellency the Viceroy and had discussed the whole situation with him and if he had been allowed to go into the country and study the situation, then there might not have been any necessity for the revival of the civil disobedience movement or for the promulgation of these Ordinances. For, as soon as Mahatma Gandhi arrived on the shores of India, he stated that he was willing to tender co-operation to the Government. This is what he said as soon as he landed in India :

“ I landed in the hope that I shall find out ways and means of tendering co-operation, but when I find that there is at every step a huge boulder, what am I to do ? I am dying to find those ways and means.”

Again, Sir, in the letter, which he wrote to His Excellency the Viceroy, he said :

“ I would ask His Excellency to reconsider his decision and see me as a friend without imposing any conditions whatsoever as to the scope or subject of discussion and I, on my part, can promise that I would study with an open mind all the facts that he might put before me. I would unhesitatingly and willingly go to the respective provinces and, with the aid of the authorities, study both sides of the question and, if I came to the conclusion after such a study, that the people were in the wrong and that the Working Committee, including myself, were misled as to the correct position and that the Government was right, I should have no hesitation whatsoever in making that open confession and guiding the Congress accordingly.”

Those who know Mahatma Gandhi, and how he holds truth above everything else, can have absolutely no illusion regarding the sincerity of the statement he made. But Government thought otherwise and he had to revive the civil disobedience movement. No one will contend that the Government should remain with folded hands and see that the civil disobedience movement spread throughout the country. The Government have enough powers in their armoury and have already used those powers in suppressing this movement. What has been the result of using those Ordinances ? In reply to this, I will quote the very words of His Excellency the Viceroy, because my friend, Mr. Anklesaria, who preceded me, said that the civil disobedience movement still exists in the country and, therefore, the Bill is quite necessary and essential. Sir, this is what His Excellency said :

“ It is a policy that has met with a remarkable degree of success. The no-rent campaign in the United Provinces has died away and the red-shirt movement in the North-West Frontier Province was rapidly brought under control. Over the greater part of India, the mass of the population is no longer concerned with civil disobedience, and so far as they reflect on the matter at all, there is a feeling of relief that measures have been taken which have restored a sense of security and peace.”

Thus, Sir, I submit the whole movement has been brought under control.

The Honourable Mr. H. G. Haig (Home Member) : But still it is the policy of the Congress.

Mr. T. N. Ramakrishna Reddi : I will come to that point presently. Even the speech of the Honourable the Home Member has not disclosed that this movement still exists in the country. What he says is that the germs of that movement are dormant and they may raise their heads at any moment. It is only to provide against that contingency that the Bill is introduced. I submit that emergent powers have been used against the movement and it has been brought under control. As soon as this emergency has ceased, these emergent Ordinances and the emergent legislation ought to be withdrawn ; on the other hand, the Bill which embodies all the Ordinances, according to the Honourable the Home Member, is not to put down the civil disobedience movement that is existing in the country, but it is only to put down the Congress movement itself. By putting down this Congress movement, the only influential political organisation in the country, the Government want to put down nationalism in the country. Every one would admit that the Congress is the one important political organisation in the country. Started by freedom-loving Englishmen, like the late Sir William Wedderburn and Mr. A. O. Hume and Sir Henry Cotton and nurtured by the greatest sons of India, the Congress has assumed the position of an all-India organisation to-day. His Excellency's predecessor, Lord Irwin, described the Congress as the great organisation. His Excellency the Viceroy himself, when he addressed this House in the beginning of the Session, referred to the Congress as an extensive organisation which commands, even outside its own ranks, a certain degree of sympathy among many of the educated classes. What is the secret of this Congress which commands so much respect even from others ? It is the love of freedom of individuals for themselves and for the country, and the Congress is composed only of individuals. The object of the Congress is the attainment of self-government by all legitimate and constitutional means. My Honourable friend, the Home Member, may raise the objection when I say that it is by legitimate and constitutional means. No doubt methods have changed now and then, but the pledges given by Government have also changed. Whatever it is, the duty of the Government is that, if this organisation does not go beyond its legitimate bounds, this should not interfere with it ; but if this organisation goes beyond its limits, then the Government may take such steps as to suppress any abnormal activity, but they should not suppress the organisation itself, because the objects of the Congress are good and legitimate. If the object is unlawful, we would not have found a gentleman of the eminence of the Honourable the Leader of the House as the Secretary of this same organisation which the Government has now declared unlawful. Sir, it is the legitimate right of every individual or a nation to attain self-government and to attain freedom by all legitimate means, and they can do so by the channel of this organisation. Such organisations are bound to exist in every dependent country. In such cases, it is the duty of the Government to see that these organisations do not transgress beyond the legitimate objects. They should not suppress these organisations as a whole. In countries which have got full freedom, in countries like Great Britain or France, such organisations do not exist, but they have got their own party organisations. Take for instance, England ; there they have three parties, the

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Conservatives, the Liberals and the Labour. Supposing the Conservative party is in power in England, the Labour party, which may be in opposition, will always try to deery the principles and the policy of the party in power and they will try to oust them from office and get into power. Can the Conservative party, which is in power, declare the Labour party in opposition as an unlawful organisation, because it is trying to usurp the power of the Government and get into office ? So, it will be as reasonable to declare the Labour party as unlawful as it is reasonable to declare the Congress organisation unlawful, because of some of its abnormal activities.

I will now answer the point which the Honourable the Home Member made, when he interrupted me. The civil disobedience movement and the no-rent campaign are not the normal activities of the Congress. These are abnormal phenomena planned and designed for the speedy attainment of the object they have in view. As I have already said, the Government have every right to put down these abnormal manifestations of this movement. As soon as abnormal manifestations cease, the Government must also withdraw the abnormal measures which necessarily they have to use to put down these abnormal activities. If these measures are allowed to remain for ever on the Statute-book, then they will corrupt the entire administration of the country and suppress nationalism. Because, if this Bill is passed into law, it will not merely suppress the abnormal activities, but it will also suppress the Congress movement itself. There is another way of looking into this question. Instead of suppressing this movement by passing this Bill, there is another way of suppressing this movement once for all, because if you strike at the root cause of this movement, then the movement will die a natural death. The root cause is the aspiration of the people of this country for self-government and it is also the declared policy of Government to give self-government at the earliest possible date. If you strike at the root cause, if you give self-government, the movement will automatically die itself. Then, you need not have recourse to all this extraordinary legislation to put down this movement. It is because you are merely tinkering with the symptoms of the disease, it is because you have not given what you promised, namely, self-government, it is because of that this movement has got lease of life now. The duty of the Government is to tackle the root cause of this disease. What is the declared policy of the Government ? I will again state it in the words of His Excellency the Viceroy in his speech on the opening of the Session :

“ The introduction of constitutional reform in India on the basis of an all-India Federation, coupled with the widest practicable measure of responsible Government at the Centre and in the Provinces, could no longer be described even by its critics as a party decision. It is now the approved policy of the British Government, of the British Parliament and of the British people.”

Sir, that is the declared policy of Government. That is exactly what Mahatma Gandhi also has accepted, because if he had not accepted this policy, he would not have gone to the Round Table Conference. He went to the Round Table Conference and there he went so far as to say that certain safeguards are necessary at this stage. So they had only to discuss the measure and the extent of the safeguards that are necessary to inaugurate this new constitution. Such being the case, the prudent course would be not to pass this legislation just at the time when we are to get

the new constitution, but to adopt a policy of reconciliation and to call in the co-operation of the leaders of the Congress. Sir, I am not talking very lightly on this point, because what is necessary at this juncture is goodwill and mutual confidence. I will again take my text from the speech of His Excellency the Viceroy who said :

“ Speaking on behalf of my colleagues and myself I tell Honourable Members frankly that the conclusion we have reached is that all that is now required is goodwill and mutual confidence to carry us to the end of our journey, so that we may see rising before us the fruition of our hopes and labours.”

Sir, at this time it is not the repressive policy, but goodwill and mutual confidence that are necessary, and will this measure enhance and bring about that mutual confidence and goodwill that His Excellency sought for ? For this goodwill and mutual confidence it is the withdrawal of the repressive measures which is necessary in order to restore the confidence of the people which has been so rudely shaken by the working of these repressive Ordinances for the last nine months, and that will ensure the successful inauguration and working of the new constitution in India. Sir, I know that His Excellency is very sympathetic and desires an early inauguration of these reforms. I am sure that no one will be more anxious than he to see the early fulfilment of the pledges which His Majesty's Government have given. Even when he was Governor of Bombay, at the time of the Montford reforms, he advocated the cause of provincial autonomy which the present Secretary of State wants to thrust upon us at this moment after so many years. Alone, of all the Governors in this country, he pleaded for full provincial autonomy. This is what we find in Mr. Montagu's “ An Indian Diary ” :

“ So far as I can gather the policy which he (*i.e.*, Lord Willingdon) is going to put forward is this ; Complete autonomy for the provinces ; he would even favour their direct control by the Government of India ; complete control in all matters of Legislative Council, with an enormous elected majority, something like sixty to ten...”

Years ago, he pleaded for this provincial autonomy which the Secretary of State wants to thrust upon our devoted heads now. And, then, subsequently, when he was Governor of Madras, it was under his stewardship that the Montagu-Chelmsford reforms were worked with the greatest success in that Presidency. Then, as soon as he landed in India to take up the Viceroyalty of India, he also said that he would like his position to approximate as early as possible to that of the constitutional Governor General of Canada. These were not mere sentiments, but were sincerely uttered. Then, Sir, how can we explain that such a sympathetic Viceroy would be responsible for instituting these measures which the Government want to pass at this juncture ? The answer is very simple. The veriest tyro in politics knows that at present we have got a most conservative and reactionary Secretary of State at the helm of affairs in England. He tried his best to defeat the policy of the Labour Government of granting full dominion status to India. We all know how successful the first Round Table Conference was and, by the time the second Round Table Conference came, the whole atmosphere changed. A large Conservative majority came into power in England with a strong Conservative, Sir Samuel Hoare, as the Secretary of State for India. Then we know how the good results of the first Round Table

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Conference were dashed to the ground at the second Round Table Conference by the Conservative Government egging on the communal differences that already existed in the country. Then, Sir, we also know how difficult it was for the Prime Minister to get the policy of the Labour Government accepted by the present Parliament. It was only through his personality that he was able to get that policy accepted by the present Government. We know, again, that the Secretary of State tried his best to impose provincial autonomy with large reservations of power to the Governors, so that they might rule most autocratically, without giving any central responsibility. Thanks to the representations which the Viceroy made at that time that responsibility at the provinces alone will not be acceptable and that nothing short of responsibility at the Centre, as well as in the provinces, will be acceptable to the people, the Secretary of State had again to change his views. Again, Sir, we also know that the Secretary of State wanted to do away with the Round Table method of discussing the reforms and he wanted to rush his ready-made Government of India Bill through before the Joint Parliamentary Committee and thus see that his Bill is passed. Again, there was a hue and cry throughout the country, and, on a fresh representation from the Viceroy, the Secretary of State had to revise his ideas. These things go to show that it is not this Government, but the Conservative Secretary of State who was responsible for initiating this piece of legislation at this time. When goodwill and mutual confidence was so necessary, certainly this Government could not have taken the responsibility for this Bill at this juncture. When the civil disobedience movement is almost dead and when the last stage of the reforms has been reached and, when, in the words of His Excellency the Viceroy, we have arrived at a stage when practical decisions have to be taken, Government want to put on the Statute-book a repressive legislation like the one that has been introduced. This gives rise to the suspicion that the Secretary of State, even at this last stage, is trying his best not to give full provincial and central responsibility for some time to come and is prompting the Government to arm themselves with coercive measures to stifle any expression of adverse opinion if any unsatisfactory constitution is thrust upon the people. That is the suspicion. In this connection, I should like to read the warning given by Mr. Edward Thomson in his book entitled "A letter from India". He says :

"It is folly to imagine that we can keep the real opposition in jail until we have done our arguing and exploration and that then they can be released and trusted or expected to work a scheme (however wise) formed while they were incarcerated. If we do not negotiate, we may as well prepare for a system of police and military rule, sitting over alleged self-government, which can have no period except that which will be set to it by admitted failure in the end."

It is said that the Bill aims only at law-breakers and that peaceful citizens will have nothing to complain of. But we have had bitter experience of the way in which the Ordinances have been worked in the country for these nine months, because this Bill is nothing but the essence of those Ordinances. I am not going to weary the House with quoting a large volume of opinion against the way in which the Ordinances are worked, but I will quote two most representative opinions of my province. One is signed by influential people consisting of an *ex*-Law Member, an *ex*-High Court Judge and an *ex*-Minister, and many

others. After narrating various acts of highhandedness by the police, they say :

“ We feel bound, in the existing circumstances, to express in clear and definite terms, our conviction that the Government are alienating public opinion and themselves creating an atmosphere unfavourable to any political settlement.”

That is the opinion of an *ex*-Law Member and many others. I shall quote only one other opinion and that is the opinion of the United Nationalist Party, led by an *ex*-Chief Minister of the Government of Madras. The statement says :

“ The party warns the Government that the only effect of the policy of ruthless repression they are following will be to strengthen the feeling against the Government and the British with the result that it will be difficult to secure that confidence and amity between the British and the Indians which are necessary for the framing and working of the new constitution and for the improvement of relations between the two countries.”

This is the essence of the opinion that has been expressed in my own province. In the face of these opinions, it is very dangerous to have a Bill enacted like this on the Statute-book. Government do not want that this Bill should be enacted as an independent measure, so that it may be repealed at any time. But they want that the provisions should be incorporated into the permanent laws of the land. The provisions of this Bill are a serious menace to the exercise of the fundamental rights of citizenship. Under these provisions, the freedom of lawful associations has been banned ; the freedom of expressing one's opinions has been gagged, and the freedom of movement has been restricted. It is one thing to frame or fashion laws for putting down law-breakers, but it is another thing to put restrictions on the exercise of the rights of citizenship. Under this law, the Government are abdicating their right to protect the rights and privileges of citizens and handing them over to the police and petty officials. It is nothing short of humiliating a whole nation. I do not want, at this stage, to enter into the details of the various clauses of this Bill, but I cannot, at this moment, forbear the temptation of quoting only one or two provisions of the Bill. Proposed new section 164-B says :

“ Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline, refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.”

This provision not only wants to protect public servants—I know it is intended to protect them against boycott,—but it also wants to protect those in whom he is interested. There is absolutely no necessity for such a provision at the present time. Who are the persons in whom a public servant is interested ? There is absolutely no definition of such persons. That public servant might be interested in his own concubine. (Laughter.) (*An Honourable Member* : “ Shame.”) I am only pointing out that this interpretation can come within this section. Are we to do service to any person in whom that public servant is interested ? There should be at least some definition. I hear a friend calling ‘ shame ’. I do not know to whom he refers ; does he refer to

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the Government who have introduced this Bill with this provision, or to the remark I made, I want to know. (*An Honourable Member* : “ For the remark.”) (*Several Honourable Members* : “ Go on, don’t heed the remarks.”) I do not want to go into details, because this is not the stage for it. His Excellency the Viceroy further stated in his speech :

“ The fundamental idea of His Majesty’s Government, as explained by the Prime Minister at the end of the Round Table Conference, is that the greatest degree of possible responsibility should be placed on the Legislatures : in other words, the Government should be based on argument and reason and on the wishes of the people as constitutionally expressed.”

I ask, does this proposed legislation tend to organise free expression of opinion which the Prime Minister wants ? Or do the Government want to prepare in advance the channels through which that public opinion should pass ? It is better to leave to future Legislatures what restrictions they want to put on the liberty of individuals, because they will be more popular and representative of the people. The present Assembly, constituted as it is with officials and nominated non-officials, is not the Assembly which should pass legislation like this, putting so many restrictions on the freedom of the individual ; it is as well that it should leave it to the future constitution. Now, I come to the three arguments advanced by my friend, the Honourable the Home Member, in introducing this Bill and which has been so ably supported by the previous speaker, Mr. Anklesaria. The Honourable the Home Member said that the Opposition invited the Government to bring in this Bill when they were discussing the Resolution last Session, and that the Government have accepted this invitation a little too late. They ought to have come a little earlier, but they accepted the invitation a little bit late. I wanted to know what that invitation was. I, therefore, went through the speeches made by the leaders at that time ; but nowhere I found that such an invitation was made. All that the leaders of the Opposition said was that if the Government wanted to put down the civil disobedience movement which was then existing, then the Opposition wanted that the Government should come before the Legislature and ask for such measures as were necessary to put down that movement ; and not to pass Ordinances behind the back of this Legislature, thus treating them with scant courtesy. That is all what they said.

Rao Bahadur B. L. Patil (Bombay Southern Division : Non-Muhamadan Rural) : Are they not doing the same thing now ?

Mr. T. N. Ramakrishna Reddi : I will come to it. The opposition never said that they would be parties to legislation to put this penal law permanently on the Statute-book even though there was no necessity existing in the country at the present time. Further, they wanted to bring an independent Bill. If there was any necessity, they wanted to bring forward a separate Bill altogether. In order to illustrate what I say, I will merely refer to one sentence in the speech made by the Leader of the Independent Party. This is what he said :

“ Why not ask the Law Member, ask the Law Secretary, ask the other legal luminaries that are in Government service, ask them to frame a proper Bill and place it before us.”

Then an Honourable Member interrupted by saying :

“ You will reject it.”

Then Sir Abdur Rahim said :

“ That depends on the necessities of the case. If the Bill goes beyond the necessities of the situation, we shall reject it or we shall modify it.”

That is all what the invitation meant.

Then the Honourable the Home Member said that this Bill was necessary as a security against the recrudescence of the civil disobedience movement. I submit, Sir, that the Government want to adopt evidently one policy for India and another policy for Great Britain. There was the Great War. Now they are trying to provide against the recrudescence of any future wars. What are they doing? Are they increasing the armaments to provide against future wars? No. On the other hand, they are seriously engaged in Disarmament Conferences.

Mr. N. M. Joshi : It is not true that they are engaged in Disarmament Conferences.

Mr. T. N. Ramakrishna Reddi : They are making, at any rate, serious attempts by means of these Disarmament Conferences to prevent future wars. They want further to substitute arbitration for armaments through the League of Nations. These are the methods they are adopting to put down any recrudescence of wars in future. But in India what are they doing to put an end to the recrudescence of the civil disobedience movement? The Government are introducing this repressive legislation. They cannot achieve their object by the methods they are now pursuing. If they are really serious to put down the civil disobedience movement, it is not by means of introducing Ordinances and Bills that they can achieve their object, but by fulfilling the pledges they have made, time and again, as early as possible and by taking the people into their confidence and by asking them to willingly co-operate with the Government to bring about peace and tranquillity in the country.

Then, the Honourable the Home Member asked us, look at the history of French and Russian Revolutions. I submit, Sir, he could not have chosen a more unhappy illustration to prove his case. In France and Russia, Revolution was preceded by most repressive forms of oppressive Governments. At that time, there existed in those countries most despotic forms of Government, hence the whole people rose in rebellion, overthrew the Houses of Bourbons and Romanoffs and established democracy in their countries. Does my Honourable friend, the Home Member, say that there exists in this country at the present time a most despotic form of Government, for argument's sake at least? I am sure, he will not admit it. Of course, if this Bill is passed, you will create such a situation in the country; but it will be admitted on all hands that despotic form of Government does not exist in this country at the present moment. I, at any rate, am prepared to concede that a despotic form of Government does not exist in this country at present.

Then, Sir, in those countries the whole nation rose against that form of despotism. Is that the case in India? Has the whole nation risen against the despotic form of Government? In the first place, as I said, does a despotic form of Government exist at all in the country to-day? Therefore, I submit, there is not going to be any revolution; we are being given reforms by dribblets. We were first given the Morley-Minto Reforms;

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ten years later, after judging the capacity of the people, a further instalment of reforms was given, called the Montague-Chelmsford Reforms, and, now, Conferences after Conferences are taking place, Committees and Commissions are appointed to find out as to what extent and, in what manner, a further instalment of reforms can be granted to the people of this country. Now, after taking so many precautions, should there be any apprehension in the mind of anybody that there will be an outbreak of any kind of revolution in the country or there will be such a big commotion as the Honourable the Home Member pictured before us the other day? I submit, that there need be no such apprehension in the mind of anybody here.

Sir, I find I have taken a long time.....

Several Honourable Members : Please go on ; please go on.

Mr. T. N. Ramakrishna Reddi : My learned friend, Mr. Anklesaria, said that India does not stand alone in having these repressive legislations. He asked us to consider that Spain and Ireland have recently passed similar legislations. My friend forgets one important thing, and that is, those countries are absolutely independent. There the executive is responsible to the legislature ; the legislature is the representative of the whole people ; and as soon as the executive encroaches upon the functions of the legislature, the legislature can immediately overthrow the executive, and so it is with the willing co-operation of the people alone that such repressive legislation can be put on their Statute-book. But what is the position in India? India is not a self-governing country as yet. It is not the people who are passing these repressive laws. Therefore, my friend must bear in mind all these vast distinctions when trying to compare India with other countries.

Then, I submit, Sir, that this is a very important measure, and as such it should not be rushed through in such post-haste. Many eminent persons and Judges of High Courts and numerous other political organisations in the country have to express their opinion either in favour or against this measure. The other day, the Home Member also guessed what the nature of public opinion would be on this Bill. That is why he fought shy of sending this Bill for eliciting public opinion. We want that public opinion should be elicited on this very important Bill.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair does not wish to interrupt the Honourable Member, but wishes to point out that he has been addressing the House for nearly fifty minutes, during which the Chair has not heard one single word in favour of the amendment which he has risen to move.

Mr. T. N. Ramakrishna Reddi : Sir, as I prefaced my speech, I am opposed to the introduction of this Bill in this House, but I wanted to move for circulation, because I want the public opinion to be on my side. On that ground and that ground alone, I move this amendment. With these words, I resume my seat.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment proposed :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 7th November, 1932.”

Shaikh Sadiq Hasan : I beg to move the amendment which stands in my name :

“ That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st January, 1933.”

Sir, I have never taken part in the civil disobedience movement, neither I am a person with communistic tendencies, nor do I belong to the terrorist group. I may say that I am opposed to all these movements and would like to see them eradicated as the Government do. But, on the other hand, I differ fundamentally from the way in which the Government are going to do it. Sir, this Bill, which is before the House, I consider much worse and blacker than the Criminal Law Emergency Powers Bill which, when passed in 1919, has been popularly known as the Rowlatt Act, and which created such a strong agitation in the country. Sir, this Bill, I consider, is against the fundamental principles of law and justice ; it is a serious encroachment on the liberties of the people ; and, in its desire to curtail the liberties of the people, it will harm more innocent men than the wicked. If this Bill is passed into an Act, I am afraid nobody will be safe from the clutches of the minions of Government, and the result would be that it would destroy legitimate movements while it would not harm the terrorists and communists, but rather, by injuring innocent people, it would increase the number of terrorists and communists. I am afraid that a Bill like this is bound to give a great impetus to the civil disobedience movement.

Sir, I am a believer in the maintenance of law and order, and I would like to see peace restored in the country. Of course, there are morbid men in the country who require to be dealt with by law, but what about the genuine grievances of the millions of people who are starving at the present moment ? (*Sir Muhammad Yakub :* “ How does this Bill affect them ?”) It does affect them. What I meant to say was this, that all these terrorist troubles, and all these communist troubles come out of the unemployment which is rampant in the country. We find hundreds and thousands of people who are starving at the present moment, who have nothing to eat. What have the Government done for them ? On a similar occasion, the American Government, the English Government came to the rescue of the people. They called conferences of industrialists, commercial men, labour leaders, just to find out ways and means of lessening the trouble. But our Government have been busy otherwise. They have been sending thousands and thousands of persons to prison without giving the least regard to the fundamental causes which underlie these movements. Sir, I may say a word about the peasantry. The British Government always boast that they are the custodians of the interests of the poor people, that they are the custodians of the interests of the peasants. (*Mr. N. M. Joshi :* “ Not now-a-days.”) Do they know that in the days of the great Moghuls, if I am not wrong, the Government used to take $\frac{1}{4}$ th part of the produce of the land ? Now, on account of the land revenue and water rates, I am positive that Government take $\frac{3}{4}$ ths of the produce of the land. (*Sir Muhammad Yakub :* “ Are these reasons for circulation ?”) I say that these are the causes of the communist and terrorist activities. I say that Bills like this can never bring peace and harmony in the country. It is only when the Government work in the interests of

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the people and adopt conciliatory methods that there will be an end to these activities. Sir, let me quote proposed new section 164-A :

“Whoever induces or attempts to induce any public servant to disregard or fail in his duty as such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”

A public servant here means any servant of the Government, may be a railway employee. It comes to this. If the peon of a station master is in enmity against a certain person and is a friend of a constable, convicting as the magistrates are, he can easily get imprisonment for anybody with the help of concocted evidence. Proposed new section 164-B says :

“Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline, refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested..... shall be punished with imprisonment.....”

I want to lay emphasis on the expression “customary service”. Now, Sir, it is usually the custom for petty officials when they go to villages to get, free of charge, fowls, butter, fuel, etc. I hope that the Honourable the Mover of the motion does not mean by customary service that he desires that this kind of bribery should continue. Let me take proposed new section 383-A. That clause is :

“*Andher nagri bedad raja.*”

“Land of darkness and unjust Government”. When a son of a person has committed an offence against the Government, the father is to be imprisoned for that. I have got facts to show that even though some of the boys are under 12 they are incorrigible and defy their fathers, and I think it is very unjust to punish the fathers for the sins of their sons. The position used to be that the sins of fathers were visited on the sons, but now it is reversed.

Now, the law is going to be made so stiff that it is bound to give trouble to any one and every one. 17E says :

“Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.”

Again, under proposed new section 17F :

“No proceeding purporting to be taken under this Act shall be called in question by any Court and no civil or criminal proceeding shall be instituted against any person for anything done or in good faith intended to be done under this Act.”

It is perfectly true that all these orders will be passed by the Local Government, but we have to see who would make the inquiries. His Excellency the Governor or the Chief Secretary are not going to make

the inquiries. They have not the time to devote in each case. After all, the Inspector of Police would go. He will report in the usual course and it will go to the District Magistrate, and so on. What I am saying is, that under these clauses no property is safe. Any one who is politically inclined, his property can be forfeited. I find that the Government are going to let loose the forces of Hell and they are going to set apart public servants as a class apart from the public which was exactly what happened during the Czar's regime. I know it for certain and every one knows it for certain that the Honourable the Mover of this Bill will not take advantage of these clauses himself, but what about the minions of the Government? Is it not possible, nay, I would rather say, it is certain that having got these wide powers, they would exercise them for their own benefit. I do not say that all of them will do it, but quite a number of them are capable of doing it. Human nature being what it is, they will utilise it for their own monetary gain or, if not, they may wreak personal vengeance. I think the Government, in the interests of the country, should not put such measures on the Statute-book which may create great agitation and trouble in the country. You know, Sir, and I am ashamed to own it that in our country it is not difficult to concoct evidence. I do not want to mince matters. It is not an unusual thing in the Courts. It is not an unusual thing to collect false evidence against a man, and, when there are so many powers given, naturally the petty officials would use them harshly and innocent people will suffer. As a result of this, I am afraid, there will be a very strong agitation and, I am sure, the civil disobedience movement will not end till this legislation is wiped off, if it ever comes on the Statute-book. I cannot understand why the Government are so keen to leave this legacy of hate to their successors. The Honourable the Mover said that it was on account of lack of firmness during the transitional period that the French and Russian Revolutions took place. At least, he said, that was the chief cause. The Honourable Member is a great expert and he cannot be unaware of the fact that all these Revolutions took place on account of the unmitigated tyranny which existed at that time and also the acts of commission and omission of the past Governments.

Well, Sir, I will say a word about the Press. Certainly I am not in favour of license to the Press. I do not want that the Press should be allowed to advocate murders or some such actions which may destroy the peace of the country but, what I do say, is, that I am also against the strangling of the liberty of the Press, because if you choke the safety valve, the result will be that you will be exasperating the people. I am afraid, the civil disobedience movement will not come to an end by this Draconian law. I cannot understand when the Honourable Member himself acknowledges that everything has improved, why he should, on the eve of this great change, bring on the Statute-book this horrible Bill. I consider the Ordinances an evil, but I consider their permanent enactment still worse. Is it wise at this juncture to create discontent and to make the least offence punishable? I admit that in the Czar's regime punishments were very stern, but I do not think that even such small offences were made punishable during those days.

I would like now to say a few words why this Bill should be circulated. The Honourable the Mover said that the Government have brought forward this Bill before the House not only in the interest of Government, but also for the sake of public. If it is really in the

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interests of the country, then certainly there is no harm in circulating the Bill for the opinion of the stable societies. Nobody is asking the Government to circulate this Bill amongst revolutionaries or terrorists or any people of such type. This Bill will, as a rule, be circulated amongst municipalities, Provincial Governments, District Magistrates and Chambers of Commerce and also very distinguished Anjumans and Sabhas which exist in India. Where is the harm if you say that the Bill is in the interests of the country while circulating for the opinion of these bodies who certainly have got as much stake in the country as the Government and would certainly not like the terrorist activities to spread in the country. I do not think the Government or the country would be a loser in that way, because meanwhile the Government can always rule by Ordinances. If you have ruled by Ordinances for one year, you can certainly do so for six months more, but, before putting this measure on the Statute-book, you should give an opportunity to the public to express their opinion on it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Amendment proposed :

“ That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st January, 1933.” 9

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Mr. President, the Leaders of all the Parties have had a consultation with me and the idea that I wish to put forward before you is not for the sake of curtailing discussion to the slightest extent. It is only this,—whether, as a matter of procedure, you, Mr. President, are going to call on every mover of an amendment tabled, or are going to call on such persons as catch your eye. Generally speaking this is a matter which I should not place before you, but the Leaders of various Parties have spoken to me, and I invite you now to give your ruling. My own idea, Sir, is that on previous occasions everyone has not necessarily been called on to speak.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : This is a matter of procedure, and the Chair has as usual called those Honourable Members who have given notice of amendments in the order in which their names appear on the Order Paper. If there is a general feeling in the House that the movers of the remaining amendments should not be called but that a general debate should take place, then the Chair will raise no objection if the House is unanimous, in favour of adopting that procedure. There is a special reason on this occasion why the Chair is inclined to accept the request of the Honourable the Leader of the House. Circulation has to be restricted in point of time, according to the rules. Three amendments have been moved which cover the whole ground. Honourable Members will observe that the three amendments which have now been put before them give them an opportunity to decide in favour of circulation before the November Session, or in time for the January Session. There does not appear to be any object in having further amendments moved which have the same effect, namely, circulation to be completed for the November Session or for the January Session. The Chair is however very reluctant to take away the right of Honourable Members who have given notice of amendments and will agree to do so only if it is the unanimous wish of the House to adopt the prote-

ture suggested. I would therefore ask whether the suggestion which the Honourable the Leader of the House has made is acceptable to the whole House.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I would suggest that it would be to the general convenience of the House if ample opportunity is given to all Honourable Members to express their views on, first, whether the Bill should be proceeded with at all, secondly, whether it should be circulated, and, thirdly, whether the Bill should be referred to a Select Committee, and Honourable Members should be at liberty to address the House on any of the three points. I would, therefore, suggest that it would be really in the interest of the debate if the three amendments, along with the other points which have already been mentioned, are thrown open for general discussion to the whole House.

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadian Urban) : Sir, as I understand that it is not the desire of the Honourable the Leader of the House or of any one in this House that the discussion should be curtailed and it is only a question of procedure, I do not think there can be any objection to the suggestion made by the Honourable the Leader of the House.

Mr. G. Morgan (Bengal : European) : Sir, I have nothing more to add to what has been said by my Honourable friend, Sir Abdur Rahim. I have no objection to this procedure at all.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadian Rural) : Sir, I have no objection to the procedure proposed.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair wishes to point out, in regard to what has fallen from the Honourable the Leader of the Independent Party, that curtailing the debate is a question for the discretion of the Chair, on whom the obligation has been imposed by the Rules and Standing Orders, that he shall not accept closure unless he is satisfied that there has been a fair debate. The procedure to which the Honourable the Leader of the Nationalist Party has drawn attention, is the procedure which the Chair has adopted all through. Three issues will be before the House. Honourable Members will be entitled to speak with a view to the total rejection of the measure, in regard to the motion for reference to a Select Committee, and for or against amendments for circulation. The debate will be unrestricted so far as all these points are concerned. The only question which the Leader of the House has raised is this,—should the other Honourable Members who have given notice of amendments for circulation be called in the order in which their names appear on the Order Paper, or whether, now that both classes of amendments have been put before the House, the discretion should remain with the Chair as to the order in which speakers should be called ? That is the only issue which the Leader of the House has raised, and the Chair wishes to know if there are any Honourable Members who are against the change in procedure suggested by him. If there are any, they will please rise in their seats

(Nobody rose.)

The procedure, therefore, is that the debate will now proceed on all the issues before the House.

Mr. B. R. Puri : Sir, there stands an amendment in my name and I wish to explain my position with reference to it.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Please speak on the main motion. You cannot move the amendment.

Mr. B. R. Puri : Very well, Sir. Though it is not necessary for me to say anything in support of a very ceremonial amendment that I had put in, I do not wish to conceal the fact that I am opposed to this measure root and branch. My first attempt is to see that this measure is thrown out bodily and, if I should fail in that attempt, then I would elect the lesser of the two remaining evils. So much with regard to my amendment.

Coming now to the measure itself, as far as 60 years ago, Sir James Fitzjames Stephen, speaking of the penal laws of this country, remarked that "the Indian Penal Code and the Criminal Procedure Code were the two grim presents by one nation to another". Sir, the idea conveyed in that observation by that eminent authority was to emphasise the harsh, merciless and unrelenting character of the Indian penal laws. These laws have now been in operation for close on a century. They have stood the test of time ; they have been found quite adequate to meet all sorts of exigencies and emergencies. Yet we are to-day asked to put on our Statute book a set of laws unknown to any civilised form of jurisprudence, laws which are so revolting, so humiliating, so liable to abuse, so sinister that it is a question whether any self-respecting subject would not pause and ask himself the question : "Is this cursed land fit to live in ?". Sir, one is reminded of the old maxim of the ancient Romans, which said : "Slaves should have no country". While the world outside has made long strides in making their laws more popular, more humane, we, in the year 1932, are asked to adopt for our normal laws, measures which are intolerable to the people and discreditable to the Government who are trying to enact them.

Sir, in the process of legislation, there is a well recognised stage when the legislation has to stop, when the legislation is helpless
 4 P.M. and futile. In the history of nations, there have occurred periods when the whole mass of population think one way, when they revolt against the existing regime, when they grow sick of the prevailing conditions. When that stage is reached, the remedy is not legislation, for legislation can never reach it. When that stage is reached, the only course open is to alter the conditions out of which it springs. I will illustrate it. If all the people were with one mind to declare that 2 and 2 make 5 and our conception be that they make only 4, then, in order to force the people to your view, you cannot put the whole population into prisons. You will either have to lay down the law, that henceforth 2 and 2 will be 5 or, else, to so improve your system of education that such perverted arithmetic becomes impossible. That would be the only course for you. Now, Sir, we have been told in the most admirable speech by the Honourable the Home Member that the thing which has actually necessitated these laws is the civil disobedience. Sir, the Honourable the Home Member very conveniently selected to deal with this subject from the stage of the civil disobedience. Let me try and make my meaning more clear. I should have wished the Honourable Member to have examined this situation from a little earlier stage. I should have expected, that in order to do full justice to the subject, he might have enlightened the House with his views as to

what brought about the civil disobedience itself. If he had gone into the subject on those lines, probably we should have had brought before the House facts and circumstances which forced the people to adopt the only weapon which is the weapon of the weak and the helpless. Goaded and oppressed by foreign exploitation, under a system of government in which the people have got no voice whatsoever for all practical purposes, do you blame them if they have resorted to the only possible remedy that they could think of? Would you have preferred that they should resort to violence and terrorism, a method which you and we jointly condemn? Sir, recently we heard some British statesmen say: "We should either govern India or get out". (*An Honourable Member*: "Who said that?") I cannot give you the name, but if you look up your newspapers, you will find that this thing has been mentioned fairly often. (*Honourable Members*: "His name is Churchill.") "We should either govern India or get out." This is what that statesman said. Sir, my respectful and humble reply is: "You should get out". (Laughter.) If you have been reduced to such a pass that you cannot govern the country without resort to such legislation, my humble reply is: "You should get out".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should address the Chair.

Mr. B. R. Puri: My humble reply to that statesman is: "You should get out".

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair takes strong exception to what the Honourable Member says. The Chair takes it, it is not his intention to use discourteous language to the Chair. The Honourable Member must know that he should say: "They should get out" instead of using the word "you". The Honourable Member is using the word "you" in spite of the fact that the attention of the Honourable Member was drawn to the fact that he should address the Chair.

Mr. B. R. Puri: I apologise to the Chair if I conveyed any discourtesy to the Chair. I did not mean "you", but I meant the Government. I was referring to the Government that they should get out.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should use the word "they" and there will be no difficulty.

Mr. B. R. Puri: It was never my intention and it could never have been meant to refer to you, Sir.

Now, Sir, the only alternative which I would ask the Government, under the circumstances, to follow is that they should retire. My reason is, that if they cannot govern this country without the aid of such laws, it would be both sporting and honourable if they retired. For, I really believe, Sir, that this is no kind of governing at all. The present measure, if at all it becomes law, would come to nothing less than this, that whoever does not love your policemen, whoever casts an unfriendly look on an official and whoever passes once or twice along the road where a third cousin of an official lives, to take only a few instances, shall be liable to imprisonment, etc. And the Government, Sir, do not stop there. The Government make these offences as cognisable and non-bailable offences on par with a dacoity

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or murder. Sir, is this legislation ? I call it the prostitution of legislation. No law has been yet devised, nor could it be ever devised which can force a people to love a Government and its agents, if they do not choose to do so voluntarily. Sir, it would be sheer madness on the part of the Government to expect that we should develop in us a sort of statutory affection for the Government agents who go and subject our sisters and daughters to lathi charges and, if we are forbidden to break their heads in retaliation, surely you do not expect us to love them. You cannot change human nature, no matter how many Ordinances you may shoot out of the armoury of Government. And here, Sir, I would ask the Government to pause and reflect and ask themselves a very simple question, " why are we reduced to this ? " " Why are we driven to have recourse to such thoughtless, childish and unheard of laws ? Yes, why ? " And they would be able to see in this phenomenon unmistakable triumph of Gandhism, the triumph of non-violent non-co operation. It is easy for the Government to put down force ; for that, they need no Acts nor Ordinances, but the great author of this cult of non-violent non-co-operation has baffled the Government and their statesmanship, they hardly know how to meet the situation. Such a case has probably never arisen in the experience of British Government. Their statesmanship is on trial and the present laws are obviously the result of the labours of the best British political brains. Sir, never was a bigger mountain in labour and never was a smaller mouse born. These laws, I venture to submit are no antidote to Gandhism. My first point, therefore, is that the legislation which the Government propose to introduce under the conditions which are prevailing is singularly inapt and an inappropriate mode of accomplishing the object they have in view. The course of the Government is to abandon the coercive methods and to substitute palliative and conciliatory measures. But that, according to the Honourable the Home Member, is unthinkable. His argument is that that is exactly what the Congress demands, and we should be playing into the hands of the Congress if we concede these demands, he believes that the prestige of the Government will be very seriously affected if they conceded the demands of the Congress. Sir, it would be a singular piece of folly if the Government did not put water on their burning house simply because that course was suggested by an enemy. The great Welsh Prime Minister of England, who won the war for the British people, has once remarked, " it is not what a nation gains, but it is what a nation gives that makes it great ". Rather than cling to such false notions of prestige, I would beg of the Government to create an atmosphere of peace and confidence and thus to save the country already in flames by abstaining from making laws which are bound to accentuate the trouble.

The next point I propose to take up is, to use the legal phraseology, a preliminary objection. In this connection I would very much like to know from the Government why these laws have been brought into this House at this late stage of the day. I am aware of the explanation which the Honourable the Home Member has given for it and I will examine it a little later on. Let me, first of all, recall the main incidents connected with the issuing of these Ordinances. We will then be in a better position to appreciate the answer and the explanation which has emanated from the Honourable the Home Member. During the space of close on a year, Sir, the country has been ruled by Ordinances, most of them were issued during last December and a few possibly in the month of January this year. But

they were issued one after the other in such quick succession that they created a sort of suspicion in one's mind that it was intended to get them all in, before something else happened. What that something else could have happened was the coming Session of the Legislative Assembly which was to meet soon after the middle of January, 1932 ; and some uncharitable people would perhaps go the length of saying that these Ordinances were all issued in hot haste lest the Assembly Session might begin and, in order to avoid the odium of issuing these Ordinances while the House was in Session, the matter was hurried through and the whole lot of them were issued before we came on the scene. Then, Sir, when we met, the Session went on for close on three months. There was not a whisper about any Ordinance whatsoever. We were not taken into confidence ; we were not told that in our absence certain measures, on account of certain emergencies, had to be promulgated ; we were not asked to give our opinions on their merits. Then, when the Session came to an end, within two months, i.e., in the month of June, we found the second instalment of these Ordinances. The period of the previous Ordinances having already expired, in the month of June they were all promulgated again, and this time in a consolidated form. The position, therefore, between the Assembly and the Ordinances had been such as if somebody had been playing a game of "hide and seek" with us. When we were in, the Ordinances were out, and when we were out, the Ordinances were in. That, Sir, has been the position so far. And now we find that, all of a sudden, Government have done us the honour of asking our views as to what we think of these laws.

The Honourable Mr. H. G. Haig : Do you complain ?

Mr. B. R. Puri : You will presently know whether I am happy or otherwise.

Sir, we are asked to look into these Ordinances, give our valuable opinion to the Government and also our votes, and in fact we are asked to validate these invalid laws, so that, henceforth, they may be issued in our name and under our seal. That seems to be the programme of Government ; and may I respectfully ask, why this sudden solicitude for us ? Why is so much consideration all at once being shown to us ? The explanation which has emanated from my Honourable friend was contained in what he said while quoting the speech of the Honourable the Leader of the Opposition wherein he had complained that the House had been left severely alone by the Government *re* these Ordinances and that, therefore, it was in deference to our wishes and out of the delicate regard which the Home Member had for the Leader of the Opposition that he was now giving the Leader of the Opposition and, through him, us, an opportunity to look into these confidential laws. That, Sir, is the explanation. Let us for a moment examine the constitutional aspect of these Ordinances. Sir, the power given to the Governor General, in certain circumstances, to issue and promulgate Ordinances, is not intended to be a power which is to over-ride the functions of the Legislative Assembly which primarily has the right and privilege of laying down the laws for this country. The power given to the Governor General is an "occasional" power, an emergent power. It is subject to certain conditions, one of them being that there must be an emergency before an Ordinance can be issued, and the second condition, which is very significant, is, that the Ordinance so issued shall automatically cease to function after the period of six months. These conditions are extremely valuable and helpful in properly interpreting section 72 of the Government of India Act. The fact that an Ordinance is not allowed to go beyond

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six months itself shows that the Act anticipated that within that period at any rate there was bound to be at least some Session of the proper legislative body. It, therefore, follows, that if the Governor General can conveniently wait, if the circumstances of the occasion permit, he should ordinarily wait and leave the matter in the hands of the Assembly to deal with. It must of course be conceded that we cannot go behind the finding and the opinion of the Governor General. His opinion as to whether there did or did not exist an emergency and whether that emergency was adequate or not, is final and he is the sole judge of it. Both common courtesy, as well as the spirit of section 72, demand that if any emergency measure is promulgated by the Governor General in our absence, we should be apprised of that fact and the matter forthwith placed before the Assembly and our opinion obtained. That this is not an extravagant interpretation of this very important provision would be apparent from the course followed by the previous Governor General (Lord Irwin) under precisely identical circumstances. I am referring to the attitude which Lord Irwin took with regard to the Press Ordinance which he was compelled to issue according to an emergency which had been created about a month or so before the Assembly met in January, 1931. The passage to which I am going to refer occurs on page 46 of the Assembly Debates, 1931, Volume I, and I am reading from the speech of His Excellency the Viceroy which he delivered in this House at Delhi.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair, which was taken by Sir Hari Singh Gour.]

His Excellency said :

“ A little less than a month ago I felt it my duty to have recourse again to the special powers which I took last year for the better control of the press and of unauthorised news sheets and newspapers and for dealing with persons who may instigate others to refuse the fulfilment of certain lawful obligations. In doing so, I expressed my regret ”—(*I would ask the House to mark these words*)—“ that the urgent nature of the emergency which necessitated the promulgation of this Ordinance did not allow me to wait till the meeting of the Central Legislature ; but I indicated the intention of my Government to bring these matters before the House at the earliest opportunity. That intention we now propose to carry into effect by introducing legislation on those two subjects forthwith.”

Therefore, it is clear that these powers have been given for a very limited purpose on very special occasions and on considerations of convenience only. When we are not in Session and when the Assembly cannot conveniently or expeditiously be summoned in order to deal with a particular emergency, the Governor General's powers come in. That being the case, it appears to me that the real situation which has been created now is something like as follows. Some days ago, in answer to a starred question put by Sardar Sant Singh, we got a very valuable answer from the Honourable the Home Member. The question related to this :

“ Did the Government of India obtain any legal opinion with regard to the power of the Governor General regarding his issuing for a second time the Ordinances which had just expired after their statutory period ? ”

The answer vouchsafed to us was that the Government of India did obtain such opinion. Asked if they were willing to place it before the House, the answer given was that the Government did not think it safe or expedient to do so.

The Honourable Mr. H. G. Haig : No ; may I explain ? The opinion of the Law Officers of the Crown is always regarded as confidential and is never published.

Mr. B. R. Puri : I apologise. The fact remains that that opinion was not disclosed to the House : whether, on the ground of there being any privilege or sanctity attaching to it, does not matter. But it is a sealed book so far as we are concerned. But that does not prevent us from arguing that had that opinion been in favour of the Government, it would have been broadcasted all over the country. The fact, that you are clinging to that opinion and that you cannot afford to disclose that opinion, speaks for itself. Therefore, you cannot blame us if, in the circumstances, we assume that that opinion and every inch of it must have been against you. . . .

The Honourable Mr. H. G. Haig : I do not want to interrupt the Honourable Member ; but the conclusion is entirely contrary to the point that I have just made, that the opinion of the Law Officers of the Crown is always confidential and that, therefore, he is entirely unjustified in drawing the conclusion that he has done.

Mr. B. R. Puri : It may be confidential, but I am not aware of any rule which would make it imperative for the Government, under any circumstances, not to disclose that opinion. I do not think that they would be doing anything sinful if they disclosed it. . . .

The Honourable Mr. H. G. Haig : If I may make the point quite clear, the opinion in fact was in favour of the course that was taken.

Mr. B. R. Puri : Well, I have no help but to accept this explanation, belated as it is. We put supplementary questions, but in spite of our efforts we could not succeed in extracting anything regarding this confidential opinion, and now, for the first time, we are told that although it is an invariable rule not to disclose such opinions, yet, for the purpose of the present debate, the Government tell us that that opinion was in their favour. . . .

The Honourable Sir Brojendra Mitter (Law Member) : If the Honourable Member's contention be that the Government action was not in accordance with the law, was it not open to him or any other lawyer to challenge the validity of Government's action in a court of law ?

Mr. S. C. Sen (Bengal National Chamber of Commerce : Indian Commerce) : How ?

The Honourable Sir Brojendra Mitter : How ? In any prosecution under the Ordinances the point could be taken that the Ordinance was *ultra vires* and, therefore, no conviction could be made.

Mr. S. C. Sen : The judgment of the Privy Council will stand against that.

The Honourable Sir Brojendra Mitter : That is not the point. Mr. Sen has entirely missed the point. The point made by Mr. Puri is this : that the promulgation of the second Ordinance was illegal, because the period of six months being over the Governor General's powers were exhausted. If the second Ordinance was illegal, that could be challenged in any trial under that second Ordinance.

Mr. B. R. Puri : I think the matter does not admit of any elaborate discussion. The class of people, who have been convicted under these Ordinances, are people who have throughout non-co-operated with the Courts ; they have lost all confidence in your system of administration of justice and, therefore, they are not resorting to their ordinary remedies,

[Mr. B. R. Puri.]

that is, of raising those points either in the original Court or in the appeal Court or carrying the matter to still higher Courts. Again, the Privy Council, in Bhagat Singh's case, have ruled that so far as the question of emergency is concerned, the Governor General is the sole authority and his opinion is final and conclusive. At the same time, it is quite possible that the question may be raised at any time ; but having regard to the fact that most of these people are non-co-operators who are affected by these Ordinances, it seems to me a natural explanation that the legality has not been tested. . . .

The Honourable Sir Brojendra Mitter : Certainly my Honourable friend is aware of volunteer lawyers in political cases.

Mr. K. C. Neogy : If Mr. Puri is arrested under the Ordinance, it might enable him to test its validity !

Mr. B. R. Puri : Even now it is not too late in the day ; the validity of these Ordinances might still be challenged and might still be tested. Therefore, you cannot possibly build up any argument upon that.

The Honourable Sir Brojendra Mitter : We are not building up any argument.

Mr. B. R. Puri : The point that I was urging before the House, when I was interrupted, was. . . .

The Honourable Sir Brojendra Mitter : I am sorry.

Mr. B. R. Puri : What is then the position of this House with reference to these Ordinances, the second lot of Ordinances in particular. It appears that while in the past we have been totally ignored by the Government, we have now for the first time been asked to co-operate with them and to assist the Government in legislating on the lines on which the Ordinances proceeded. I submit that that is nothing short of adding insult to injury. I maintain that having been contemptuously left alone, we will ask the Government that the course which they were advised to follow on previous occasions should be continued as it is a speedier and an easier method of legislating.

The Honourable Mr. H. G. Haig : Does the Honourable Member prefer a third Ordinance ?

Mr. B. R. Puri : I do.

The Honourable Sir Brojendra Mitter : Is it not shirking responsibility ?

Mr. B. R. Puri : No.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaun Divisions : Non-Muhammadan Rural) : Why should we take your responsibility ?

Mr. S. C. Mitra : (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : For Round Table Conferences you choose your own men, but for legislation of this sort you want our assistance ?

Mr. B. R. Puri : Therefore, in view of the Government's past conduct, in view of the treatment which was meted out to us, it can hardly lie in the mouth of the Government now to turn round and ask for our help. As a matter of fact, to avoid inconsistency out of the two courses, namely, either to present a Bill before this House or to issue an Ordinance, the Government should straightaway elect the latter course. After all, the former is a far more cumbersome one. The Government have to put

up with uncharitable criticism, hear very many unpleasant things, from this side of the House. Why give these people an opportunity to make noisy speeches, why take the risk of getting a measure defeated when with one stroke of the pen you can issue any number of Ordinances which would be good for six months, but, if necessary, they could be renewed as often as required according to your view of the law. Why, then, Sir, do you come to us ? It seems that some good has come out of this evil. At any rate, we have now been able to discover a remedy to get rid of this Legislature.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

Henceforward no Government measure need ever be brought into this House. This House will only be reserved for discussing measures like the Sarda Act or the Hindu Marriage Bill. The Government have now got a clear cut course. They say the opinion is in their favour, that is, in favour of the course which they have followed. If this is so, then the matter is simplified—the Governor General can issue and keep on re-issuing Ordinances every six months.

The Honourable Sir Brojendra Mitter : No, Sir ; that is not the position.

Mr. B. R. Puri : Then I take it that the opinion with regard to the second point is against the Government.

The Honourable Sir Brojendra Mitter : The point which my friend formulates was never placed before anybody for opinion. The point that was placed before the Law Officers was quite different.

Several Honourable Members : There was no opinion in favour or against it.

Mr. B. R. Puri : Sir, by the time we have finished, I do not know what would become of this “ opinion ”, as I find there are changes and changes and changes made in the statements. We are now told that that opinion was with regard to certain other matter. (Laughter.) In any case, there is no doubt that, whether that opinion related to this particular matter or to some other allied matter, the fact remains that we were not consulted. The truth appears to be this that the Government have now realised that they have committed a constitutional blunder, and, having reconsidered their position, they do not again want to take the odium of issuing and re-issuing these Ordinances time and again. They have come down, having realised their folly, to ask us to convert those Ordinances into an Act. Otherwise, if they were confident that what they did was correct and constitutional, then where is the point in coming before this House and to ask for its help ? Sir, to say, that it was in deference to the wishes of any Honourable Member that this Bill has been brought forward, is an idle explanation. It would not carry any conviction with any of us. The real explanation seems to be as I have ventured to outline. The Government, it would seem, are now on the horns of a dilemma. They bring this measure before us, but, at the same time, they are not prepared to acknowledge that the previous procedure followed by them was constitutionally wrong. If they admit it, then it would automatically follow that they should from tomorrow open their prison gates and release all those people who are now undergoing sentences, illegal sentences, under the Ordinances they have promulgated. It is in order to save themselves

[Mr. B. R. Puri.]

from that situation, that they cannot now afford, like honest people, to admit that their previous course was not constitutionally right. In order to put a cloak over it, in order to get their previous acts validated, they come to us as a last resort. Sir, they should know what the reply can be under the circumstances.

It may possibly be urged that the reason, why they have come to us now, is, because the Government want to have this measure passed for an unlimited period. Even that, I submit, is not a very sound explanation, because, as I have endeavoured to point out, according to the interpretation which they have put upon the powers of the Governor General under section 72, they are not confined to any time limit.

Again, Sir, as has been pointed out by one of my Honourable colleagues, where is the necessity of passing these laws at this juncture ? If we refer to the Statement of Objects and Reasons of this Bill, we are assured that the civil disobedience movement has been considerably controlled. Whatever may have been the situation at the beginning, it has vastly improved ; in fact, if there is any truth in the repeated assurances which the Secretary of State has given to the British people at home, the movement has completely broken up, the Congress has gone to pieces, and the clouds have all disappeared,—if that is a true statement of facts, and the Government ought to know the extent of the accuracy of these assertions, may I submit that that would be a justification not only not to perpetuate these laws, but, on the other hand, to repeal the existing Ordinances. If and when the movement revives, Government could easily issue an Ordinance. Why ask us to put on the Statute-book measures of such radical character for all time to come, when the situation is far easier ?

Now, Sir, with regard to certain clauses of the Bill.....

The Honourable Sir Brojendra Mitter : Before my Honourable friend proceeds to the next topic, may I ask him—I have been waiting all this time to know—what his preliminary objection is. It would help us very much to deal with the matter if my Honourable friend could formulate his preliminary objection to the measure.

Mr. B. R. Puri : My preliminary objection was this. As I pointed out at the very outset, I was very curious to find out what had led Government to bring these Ordinances into this House at this time, and I have urged that the Government should continue the procedure they had themselves adopted, why worry us. I submitted that the introduction of these Ordinances into this House was not intelligible to us.

Now, Sir, coming to the actual merits of these laws, before I deal with them, I would like to ask you to consider one or two main points that occurred to me with regard to the general policy of this Bill. The first point which I would like to ask you to consider is the one relating to clause 3, you will find the language.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Is it too much to expect the Honourable Member to give up the use of the word “you” ?

Mr. B. R. Puri : With due apologies I trust the Chair will accept my assurance.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I have accepted it.

Mr. B. R. Puri : I have unfortunately got into such a habit ; I am trying to improve. Proposed new section 164A under clause 3 reads :

“ Whoever induces or attempts to induce any public servant to disregard or fail in his duty as such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : On a point of order, Sir. So much talking is going on in this corner of the House that we cannot listen to the Honourable Member's speech.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Whenever the noise has reached the Chair, the Chair has called to order. The Chair trusts that Honourable Members in talking to their neighbours will speak so low as not to disturb their colleagues.

Mr. B. R. Puri : Now, the two provisions, which I particularly wish to deal with in order to make out the point I have in my mind, are those contained in clause 2 and clause 13. (*An Honourable Member* : “ You said clause 3.”) By mistake I referred to clause 3, I meant clause 2 and clause 13. You will find that these clauses are supplementary to each other. Clause 2 says :

“ Whoever dissuades or attempts to dissuade the public or any person from entering the Military, Naval or Air service of His Majesty shall be punished.....”

There is an exception to it :

“ This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given.”

This is, Sir, clause 2, and if we turn to clause 13, we will find corresponding provision regarding police service. The object of these two provisions is identical. One refers to the police service exclusively and the other refers to the military, naval and air service. The essence of the offence lies in the fact that if anybody dissuades the public or any person from entering these services, he is guilty of the offence created under this proposed law. Now, the point that I wish the House to take into consideration is this. It is obvious, according to the wording of these sections, that the moment it is proved that anyone has advised or dissuaded any individual from entering the police service or even attempted to do so, he has committed this offence and he is guilty under this section. I maintain, Sir, that this violates the elementary principle of law, namely, that in this case the burden of proving his innocence has been placed upon the accused person. All that the prosecution need prove is that I have dissuaded a person from entering a service and I can only escape if I prove my good faith. Otherwise, in the absence of my taking any steps to bring my case within the exception, I am guilty under this section. Now, Sir, I will ask you to consider whether every advice or persuasion is *per se* actionable. Mere advising a person not to enter the police service should not be penal unless something else is proved, for example, if this advice is given with a sinister motive. An advice may be a perfectly *bona fide* one or it may be a mischievous advice. Why should the prosecution be given the advantage of having a presumption made in their favour that in the absence of the accused proving his good faith, it shall be assumed that the advice given was with a bad motive. This, I submit, is contrary to fundamental prin-

[Mr. B. R. Puri.]

ciple of law and places an accused person in a very disadvantageous position. There is no definition given in the explanation as to what good faith is. Now, the notions of Government and our notions with regard to good faith might differ considerably. I might honestly believe that it is not a laudable thing for a person to enter the police service in order to promote the working of a system of Government...

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : How long is the Honourable Member likely to take ?

Mr. B. R. Puri : About an hour more.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : As the subject matter, which is now under the consideration of the House, is very important, the Chair proposes not to take up questions either to-morrow or the day after, so that one hour each day will be saved on that account. Honourable Members will not be put to any inconvenience, as it is not intended to prorogue the House but only to adjourn it. Notices of questions which are now outstanding will be answered later on.

Mr. N. M. Joshi : May I suggest that these starred questions may be treated as unstarred and replied by Government ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : That
 5 P.M. would prevent the putting of supplementary questions.
 The Chair should like to know whether any Honourable
 Member objects. Those who object will please rise in their seats.

(Mr. S. C. Mitra and Dr. Ziauddin Ahmad rose in their places.)

Mr. S. C. Mitra : May I explain my position ? The right of putting questions is the only substantial right that we enjoy, which is more effective than these debates, because in interpellation we get some reply whereas all these Bills may be certified and the Resolutions are merely recommendatory. I suggest that we may be empowered to change our starred questions into unstarred ones, so that we may get some reply, rather than wait for another two months to get a reply to these questions.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : On a point of order. The questions that have accumulated are so many that it will not be possible to finish them this term even though we may have them every day and if we carry them to the November Session, I am afraid, there will be so much accumulation that we will not be able to finish them even in the November Session.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Honourable Members are aware that that will mean an extension of this Session.

Sir Hari Singh Gour : May I make a suggestion ? I suggest that Honourable Members who are anxious that their questions should be answered forthwith may immediately give notice to the effect that their starred questions may be treated as unstarred.

Mr. S. C. Mitra : It is only the President who can do it. Otherwise Government will require fresh notice for ten days.

Mr. Gaya Prasad Singh : Some Honourable Members are anxious to go away and I strongly deprecate anything done by some gentlemen in order to facilitate their own personal point of view.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : This is a matter of public interest. If Honourable Members have given notice of questions and replies are due, I think they are entitled to claim that such replies should be given. It is a matter of the convenience of the whole House. The Chair is willing to accept the suggestion of the Leader of the Nationalist Party. If Honourable Members write to Government giving the numbers of those questions which they wish answered immediately the Chair feels confident Government will furnish replies treating them as unstarred questions. I think that ought to satisfy the House.

Mr. S. C. Mitra : We are satisfied.

Mr. President : The House will now adjourn till 11 o'clock to-morrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 27th September, 1932.

LEGISLATIVE ASSEMBLY.

Tuesday, 27th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

UNSTARRED QUESTIONS AND ANSWERS.

COST OF CONSTRUCTION, ETC., OF THE RAILWAY LINE BETWEEN MADURA AND DHANUSHKODI.

58. **Mr. R. T. H. Mackenzie** : Will Government be pleased to state the following :

- (a) the capital cost of construction of the line between Madura and Dhanushkodi including all bridges, etc., and the cost of the pier at Dhanushkodi ;
- (b) the capital cost of the original ferry boats, their number, when purchased and when discarded, also amounts, if any, realised by the sale thereof ; capital cost of new ferry boats and their number ;
- (c) amount spent in maintenance and upkeep of the line between Madura and Dhanushkodi for the last six financial years including all amounts expended to prevent, or as a result of, drifting sand, and also including all expenditure as a result of flood damage ; and
- (d) the traffic carried and the amount earned by :
 - (i) the section of line between Madura and Dhanushkodi ; and
 - (ii) the section between Madura and Tuticorin during the past six years ?

Mr. P. R. Rau : I have called for whatever information is readily available, and shall lay a statement on the table in due course.

PURCHASE OF COAL FOR RAILWAYS.

59. **Mr. K. C. Neogy** : (a) Is it a fact that during the last war a large quantity of second class coal, both from the Raneegunj and Jharia coalfields, was used by the different Indian Railways and the Government departments ?

(b) Is it a fact that the use of second class coal during these years did not result in an increased tonnage in consumption ? If the reply be in the negative, will Government state what was the extent of increased tonnage ?

(c) Are Government aware of the favourable rates at which second class coal is now available for purchase, and are Government prepared to issue instructions to all Government purchasing authorities to purchase in future this class of coal in larger quantities than is being done at present ?

(d) Is it a fact that coal from State Railway Giridih Colliery is not only used in mails but also in passenger and goods services ?

(e) Are Government aware that coal suitable for passenger and goods trains is available from the market at a much cheaper rate than the cost of the Giridih coal ?

(f) Are Government prepared to issue instructions to the railways concerned not to use Giridih coal for passenger and goods services and to purchase the requirements for these services from the market ?

Mr. P. R. Rau : (a) Yes.

(b) The coal consumption of locomotives fluctuates with the traffic carried. I place on the table a statement showing the coal consumption per 1,000 gross ton miles for the Eastern Bengal, East Indian, Oudh and Rohilkhand, Great Indian Peninsula and North Western Railways for the individual years 1913-14 to 1921-22 together with coal consumption during 1930-31. It would be seen from these statistics that a rise in coal consumption per thousand ton miles took place on these railways towards the latter part and immediately after the war period. It is not possible to gauge accurately to what extent the increased use of second class coal contributed towards this increase in consumption.

(c) Government are aware that second class coal can be bought cheaper and in determining what amounts of various sorts of coal should be purchased they always pay attention to this factor.

(d), (e) and (f). The production of coal from the Giridih Collieries has been reduced as far as practicable. In order to utilise the total production as economically as possible Giridih coal is used for mail and passenger services but not for goods services. It is understood that for passenger services similar coal at cheaper rate can be obtained in the market.

Statement of coal consumption for 1,000 gross ton miles for the years 1913-14 to 1921-22 and 1930-31.

Years.		Railways.					
		Eastern Bengal.		E. I.	O. & R.	G. I. P.	N. W. 5' 6" gauge.
		5' 6" gauge.	3' 3 $\frac{3}{8}$ " gauge.				
1913-14	..	223·5	267·4	141·0	200·5	222·5	183·2
1914-15	..	225·2	268·3	137·6	203·5	225·2	187·4
1915-16	..	208·6	255·2	133·9	197·5	209·4	177·1
1916-17	..	210·0	252·5	127·6	179·3	212·6	168·7
1917-18	..	222·4	231·8	136·9	178·2	230·4	168·3
1918-19	..	221·9	244·3	144·5	170·4	236·0	186·9
1919-20	..	222·7	*	148·6	197·7	252·2	213·6
1920-21	..	231·5	237·1	147·2	198·7	248·5	232·3
1921-22	..	261·2	214·9	163·8	240·5	266·7	218·8
1930-31	Passen- ger	180·6	191·0	161·6	Included under E. I. Rail- way.	174·2	160·2
1930-31	Goods	116·1	144·1	109·8	Do.	164·2	134·2

* Information not available.

REPORT OF MR. W. E. SMITH ON THE SCHEME OF ASSISTANCE TOWARDS THE
EDUCATION OF THE CHILDREN OF RAILWAY EMPLOYEES.

60. **Mr. K. C. Neogy :** (a) Has Mr. W. E. Smith, I.E.S., Officer on Special duty with the Railway Board, submitted his report on the scheme of assistance towards the education of Railway employees' children ? If so, what are his proposals as regards (1) assistance to employees and (2) schools maintained by the State Railways ?

(b) Has the report been published ? If so, will Government be pleased to circulate it among the Members of the Assembly ?

(c) If it has not been published, do Government propose to consider the desirability of publishing it at an early date ?

(d) Have the Railway Board, on consideration of the materials supplied by the report, come to any decision as regards (1) educational assistance to employees and (2) schools maintained by the Railways ? If so, what are the decisions ?

(e) If the Railway Board have not come to any decision as yet, are they prepared to consider the desirability of consulting the Central Advisory Council for Railways and the All-India Federation of Railway-men's Unions in the matter before formulating their decisions ?

(f) Are Government prepared to consider the desirability of placing their decisions before the Central Advisory Council for Railways and the Legislative Assembly before giving effect to them ?

Mr. P. R. Rau : (a), (b) and (c). Copies of the report have been placed in the Library of the House and I shall be pleased to supply copies to any Member interested.

(d) The report is still under examination by the Railway Board.

(e) and (f). The suggestions will be considered.

EXPENDITURE ON THE EDUCATION OF THE CHILDREN OF EUROPEAN,
ANGLO-INDIAN AND INDIAN EMPLOYEES OF STATE RAILWAYS.

61. **Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the State Railways during the year 1931-32 for the education of the children of (1) European and Anglo-Indian employees, and (2) Indian employees ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

EXPENDITURE BY THE EAST INDIAN RAILWAY ON CERTAIN RAILWAY
SCHOOLS.

62. **Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the East Indian Railway during the year 1931-32 on
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(1) the Oakgrove European School, (2) other Railway European Schools on the line and (3) the Indian schools maintained by the Railway ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

AMOUNT SPENT BY THE EAST INDIAN RAILWAY ON THE EDUCATIONAL ASSISTANCE OF EUROPEAN, ANGLO-INDIAN AND INDIAN EMPLOYEES.

63. **Mr. K. C. Neogy :** Will Government be pleased to state what sums were spent by the East Indian Railway during the year 1931-32 on the educational assistance of (1) European and Anglo-Indian employees, and (2) Indian employees ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

TREATMENT OF THE EAST INDIAN RAILWAY SCHOOLS AS " OUTSIDERS " IN THE MATTER OF RENTS OF BUILDINGS, ETC.

64. **Mr. K. C. Neogy :** (a) Is it a fact that in September, 1931, the Railway Board issued orders regarding the scale of rents and maintenance charges, etc., for lands and buildings let to outsiders or private firms and individuals ? If so, will Government be pleased to lay a copy of the circular on the table ?

(b) Is it a fact that the Railway schools maintained by the East Indian Railway have been treated as outsiders in the above respects in terms of the above circular ?

(c) In view of the fact that on the 12th September, 1929, in reply to a question by Pandit H. N. Kunzru, Sir George Rainy, the then Railway Member of the Government of India, declared that the schools maintained by the East Indian Railway are the property of the Railway and that, as the East Indian Railway belongs to Government, there cannot be any manner of doubt that these Railway schools are Government schools in that sense, and also in view of the facts that on the 1st February, 1928, in reply to a question by the same member, the teachers employed in the East Indian Railway schools were declared by the then Financial Commissioner of the Railway Board to be Government servants in the same sense and that in June, 1928, the Railway Board had also again declared the teachers in the East Indian Railway schools to be Railway servants, will Government please state why the schools are treated as outsiders in the matter of rents, maintenance charges, etc. ?

(d) Are Government prepared to look into the matter and issue necessary instructions to the Agent, East Indian Railway, to treat the schools in conformity with the above pronouncements ?

Mr. P. R. Rau : (a) Yes. A copy of the letter is placed on the table.

(b), (c) and (d). Certain information is being collected and a reply will be placed on the table in due course.

GOVERNMENT OF INDIA.
RAILWAY DEPARTMENT.
(RAILWAY BOARD.)

No. 3586-F.,

Dated Simla, the 15th September, 1931.

To

THE AGENT,
EAST INDIAN RAILWAY,

Scale of rents for buildings let to outsiders.

DEAR SIR,

With reference to your letter No. A. W.-2491, dated the 20th August, 1931, on the subject noted above, I am directed to say that the Railway Board are of opinion that where buildings are let to private firms and individuals, even though it is to the advantage of the railway staff in particular or in the interest of the Railway in general, rental should ordinarily be recovered at a rate that will not cause any loss to railway revenues, that is to say, it should be such as to cover interest charges on the total capital cost of the buildings inclusive of the cost of land and charges for depreciation and maintenance and repairs. There is of course no occasion for the railways to attempt to charge anything more than this and to make a profit in such cases.

Yours faithfully,

(Sd.) BARKAT ALI,

Deputy Director of Finance, Railway Board.

D. A. :—Nil.

No. 3586-F., DATED 15TH SEPTEMBER, 1931.

Copy forwarded for information to the

1. Chief Accounts Officer, East Indian Railway.
2. Director of Railway Audit (in duplicate).

(Sd.) BARKAT ALI,

for Financial Commissioner, Railways.

COMMERCIAL DEPARTMENT OF THE GREAT INDIAN PENINSULA RAILWAY.

65. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether on the Great Indian Peninsula Railway the Commercial Department is a separate Department ;
- (b) whether the officers and other subordinate staff of the Commercial Department are not interchangeable with those in the Transportation or any other department ;
- (c) whether there is any proposal under consideration for amalgamation of the Commercial and the Transportation Departments ; and
- (d) if so, whether Government have considered that amalgamation will not cause complications in the matter of promotions in service and tend to preferential treatment of officers employed in the Transportation Department ?

Mr. P. R. Rau : I have called for certain information and will lay it reply on the table in due course.

REVISION OF THE CADRES OF THE SUPERIOR SERVICES ON THE STATE-MANAGED RAILWAYS.

66. Mr. N. M. Joshi : Will Government be pleased to state :

- (a) when the revision of the cadres of the superior services on the State-managed Railways was first taken in hand ;
- (b) when the revision was finally sanctioned ;
- (c) from what date the revised cadres came into force ;
- (d) what was the total number of administrative and non-administrative superior posts on the Great Indian Peninsula Railway in each of the following departments according to the sanctioned revised cadre : (i) Transportation (Traffic and Power), (ii) Commercial, (iii) Engineering, and (iv) Mechanical ;
- (e) whether the sanctioned revised cadre has been further modified or reduced since the date of its introduction ;
- (f) if so, what the present sanction is for administrative and non-administrative officers in each of these departments according to this further revised cadre ;
- (g) whether any permanent vacancies exist in this further revised cadre and, if so, how many in each of these departments ;
- (h) how many subordinates have been officiating in these permanent or leave vacancies and for what aggregate periods in each of these departments ; and
- (i) if permanent vacancies exist in the reduced cadre, what the reason is for not filling in permanent vacancies by subordinates officiating in the superior service pursuant to Sir Alan Parson's reply in 1928-1929 that confirmation of subordinates is dependent on permanent vacancies occurring ?

Mr. P. R. Rau : (a) The question was taken in hand in 1929.

(b) In March, 1931.

(c) From 1st March, 1931.

(d) The grouping so far followed in fixing the cadres on State-managed Railways is Transportation (Traffic) and Commercial, Transportation (Power) and Mechanical Engineering Departments and Civil Engineering Department and the total number of administrative and non-administrative superior posts on the Great Indian Peninsula Railway sanctioned in each of these in the cadre of March, 1931, was as under :

	Administra- tration.	Non-Adminis- tration.
Transportation (Traffic) and Commer- cial Departments	5	56
Transportation (Power) and Mechanical Engineering Departments ..	5	30
Civil Engineering Department ..	5	58

In addition to these superior posts, the cadres of these Departments included 7, 12 and 14 posts, respectively, in the Lower Gazetted Service.

(e) Yes, it has been reduced.

(f) The present sanctioned cadre is as under :

	Superior.		
	Adminis- tration.	Non-ad- ministra- tion.	Lower Gazetted Service.
Transportation (Traffic) and Com- mercial Departments ..	5	44	9
Transportation (Power) and Mechanical Engineering Depart- ments	4	27	9
Civil Engineering Department ..	4	44	17

Of these the number of posts placed temporarily in abeyance is Transportation (Traffic) and Commercial, 2 ; Transportation (Power) and Mechanical Engineering, 2 ; and Civil Engineering, 3.

(g) I would refer the Honourable Member to the reply laid on the table on the 14th September, 1932, to part (e) of his question No. 486, dated 23rd February, 1932.

(h) I have called for certain information and will lay a reply on the table in due course.

(i) The question is under consideration.

SUBORDINATES OFFICIATING IN THE SUPERIOR SERVICE OF THE GREAT INDIAN PENINSULA RAILWAY.

67. **Mr. N. M. Joshi** : Will Government be pleased to furnish a statement showing :

(a) the subordinates officiating in the superior service on 31st March, 1931, in each of the following departments of the Great Indian Peninsula Railway : (i) Transportation (Traffic and Power), (ii) Commercial, (iii) Engineering, and (iv) Mechanical ;

(b) their total length of officiating service ; and

(c) if any of them have been confirmed in permanent vacancies the dates on which they have been so confirmed ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

CONFIRMATION OF SUBORDINATES IN THE SUPERIOR SERVICES OF THE GREAT INDIAN PENINSULA RAILWAY.

68. **Mr. N. M. Joshi** : Will Government be pleased to state :

(a) whether it is a fact that subordinates who were first selected to officiate in the superior service in 1922 and have continued to officiate to date have not so far been confirmed in permanent vacancies on the Great Indian Peninsula Railway, while those who followed them in 1926 and subsequent years have been so confirmed ;

- (b) if so, whether it is a fact that a subordinate who has passed the selection grade at the time of his promotion to officiate in the superior service and who has put in approved service whilst continuing to officiate, is required to submit to a further selection at the time of his confirmation in a permanent vacancy ;
- (c) whether it is a fact that there is a clear demarcating line between the junior scale and the lower gazetted service ;
- (d) whether confidential reports are annually submitted to the Agent on the working of each officer, be he permanent or officiating, and any adverse comment against any individual is required to be noted by him ;
- (e) whether subordinates whilst continuously officiating in the officers grade earn their annual increments in that grade ;
- (f) whether there have been any instances where the annual increments of subordinates officiating in the officer's grade have been stopped and, if so, whether they continue to officiate in that grade ;
- (g) whether the Railway Board have laid down any discriminating principles for deciding comparative merits and abilities of two individuals for the purpose of confirmation in permanent vacancies ;
- (h) if not, what are the tests applied to determine absolute equality between two individuals recommended for confirmation in one specific grade, i.e., junior scale or the lower gazetted service ; and
- (i) whether confirmation in the order of seniority is based on length of officiating service, especially when the individual concerned has earned annual increases regularly and there is no falling off in the standard of his work ?

Mr. P. R. Rau : (a), (b) and (i). Promotions of subordinates to officer's grades are made by selection and are not necessarily in order of length of officiating service.

(c) Yes.

(d) Yes : adverse comments in confidential reports are as a rule communicated to the officer concerned.

(e) Yes.

(f) Government have no information.

(g) and (h). No definite tests can be laid down : it is a matter for the discretion and judgment of the authority making the selection.

RATES AND CLAIMS WORK ON INDIAN RAILWAYS.

69. **Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) whether the Rates and Claims work is recognised on Indian Railways as specialised work ;

- (b) whether in the past the officers and the staff of the Rates and Claims sections were not transferred from these branches but had to seek promotions in those sections only ;
- (c) whether there are any other specialised posts in the Commercial Department ; if so, what ; and
- (d) whether the senior men employed in other than specialised posts are given an opportunity to prove their fitness for the specialised posts before promoting out of turn the junior men working in the specialised posts ?

Mr. P. R. Rau : (a) Yes.

(b) The practice on the different railways varies according to local conditions. Generally it might be said that officers are transferable to other branches but the clerical staff is not ordinarily transferred.

(c) No.

(d) The selection of men to fill posts is ordinarily left to the discretion of Heads of Departments who will probably consider whether special circumstances exist to justify such a course. I am sending a copy of the Honourable Member's question and the answer thereto to State-managed Railways for their information.

RECRUITMENT OF A CLAIMS OFFICER OF THE COMMERCIAL DEPARTMENT, GREAT INDIAN PENINSULA RAILWAY.

70. **Mr. N. M. Joshi :** Will Government be pleased to state :

- (a) whether any direct recruitment of a Claims Officer of the Commercial Department was made in England in 1929 ;
- (b) if so, whether applications were invited in India before resorting to recruiting in England ;
- (c) what were the special qualifications required of the applicant for the post to be filled by such direct recruitment in England ; whether the recruited candidate possessed all those qualifications ; and
- (d) if the officer recruited in England was for any particularly specialised post,
 - (i) how and in what branch was he employed on his arrival in India,
 - (ii) how long he continued to work in that specialised post, and
 - (iii) how he has been employed since he was taken away from the specialised post ?

Mr. P. R. Rau : (a) There was no direct recruitment for the post of a Claims Officer of the Commercial Department in any of the State-managed Railways in 1929.

(b), (c) and (d). Do not arise.

PROMOTION OF AN ANGLO-INDIAN SUBORDINATE ON THE GREAT INDIAN PENINSULA RAILWAY.

71. Mr. N. M. Joshi : With reference to question No. 490 asked on 23rd February, 1932, in the Legislative Assembly and the reply given thereto, will Government be pleased to state :

- (a) whether Government have been able to obtain information in respect of the Indian officer in the Commercial Department of the Great Indian Peninsula Railway, who was not recommended for confirmation because he was on the verge of retirement whilst this consideration was waived in the case of another Anglo-Indian officer who was serving his extension of service beyond his 55 years age limit ; and
- (b) what the total officiating service of this Indian was in the officer's grade ?

Mr. P. R. Rau : I have now called for the information and will lay it on the table of the House in due course.

GREAT INDIAN PENINSULA RAILWAY CASES DEALT WITH BY THE RATES ADVISORY COMMITTEE.

72. Mr. N. M. Joshi : Will Government be pleased to state :

- (a) the number of cases since 1929 referred to the Rates Advisory Committee in which the Great Indian Peninsula Railway appeared as defendant ;
- (b) the total amount paid to (1) the Great Indian Peninsula Railway's solicitors, and (2) the counsel engaged by the Great Indian Peninsula Railway ?
- (c) the total annual cost of establishment employed on Rates work (excluding Traffic Canvassers and Inquiry Clerks and the Commercial Survey and Development Branch) both under officers and clerical staff ;
- (d) whether in the dispute between the Great Indian Peninsula and Bengal Nagpur Railways on the one hand and Chindwara Colliery Association on the other hand by the Rates Advisory Committee in 1932 the Bengal Nagpur Railway had employed any Counsel or whether that administration put its defence through the Rates Officer ;
- (d) whether the Great Indian Peninsula Railway had engaged the counsel ;
- (e) if so, what were the total bills of costs of the solicitors and counsel in that case incurred by the Great Indian Peninsula Railway ; and
- (f) whether the Deputy Traffic Manager, Rates and Claims, does any Claims work, if so, what ; and, if not, whether a portion of his salary is debited to cost of staff employed on Claims work ?

Mr. P. R. Rau : (a) Two.

(b) (1) *Nil*.

(2) Rs. 4,637.

(c) Rs. 1,05,341.

(d) Through the Rates Officer.

(e) Yes.

(f) Rs. 3,950.

(g) The Deputy Traffic Manager, Rates and Claims, deals with claims cases in the absence of the Chief Traffic Manager, as for administrative convenience the Claims Superintendent ordinarily works direct with the Chief Traffic Manager. Half the salary of the Deputy Traffic Manager, Rates and Claims, is debited to cost of staff employed in claims work.

MONTHLY COST OF THE TICKET CHECKING STAFF, ETC., ON THE GREAT INDIAN PENINSULA RAILWAY.

73. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) the total monthly cost including pay and allowances both permanent and travelling of Ticket Collectors, Ticket Inspectors, Chief Ticket Inspectors, Travelling Ticket Inspectors and Train Conductors employed on the Great Indian Peninsula Railway ;
- (b) the cost of the Crew system in force on certain sections of the Great Indian Peninsula Railway with their mileage ;
- (c) the financial gain to the Railway from the introduction of the Crew system ; and
- (d) the names of any other State railways over which this Crew system exists ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due time.

TOTAL COST OF THE MURPHY COURT OF INQUIRY.

74. **Mr. N. M. Joshi** : (a) What is the total cost of the Murphy Court of Inquiry appointed in August, 1931, under the Indian Trade Disputes Act ?

(b) What is the total amount of legal charges paid to solicitors and counsel by all the Railway Administrations ?

(c) What is the share of such charges paid by each individual railway ?

Mr. A. G. Clow : (a) Rs. 46,572.

(b) Rs. 62,881.

(c) One quarter by each of the four State-managed Railways in India (excluding Burma).

CONFIRMATION OF CERTAIN ANGLO-INDIAN OFFICERS ON THE GREAT INDIAN PENINSULA RAILWAY.

75. **Mr. N. M. Joshi** : Will Government be pleased to state :

- (a) whether nine Anglo-Indians were confirmed as officers on the Great Indian Peninsula Railway in 1931 in the junior scale and lower gazetted service ;
- (b) if so, how many in the junior scale and how many in the lower gazetted service ;
- (c) how many of the confirmed subordinates have been admitted to the Lee Concessions ;
- (d) how did these subordinates register their nationality at the time they first entered the railway service ;
- (e) whether it is a fact that an officer who having got the benefit of the Lee Concessions by declaring it to be his intention to retire outside India at the end of his service settled down in India ;
- (f) if so, the steps Government propose to take to recover the overseas pay drawn by him ; and
- (g) when the concessions of free passage to subordinates with British domicile were sanctioned ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

WITHDRAWAL OF LEAVE ON AVERAGE PAY CONCESSION FROM SUBORDINATES OFFICIATING AS OFFICERS ON THE GREAT INDIAN PENINSULA RAILWAY.

76. **Mr. N. M. Joshi** : (a) Is it a fact that the concession of leave on average pay to subordinates officiating in the officers grade continuously for more than three years has been withdrawn on the Great Indian Peninsula Railway ?

(b) If so, are Government prepared to consider its re-introduction ?

Mr. P. R. Rau : (a) and (b). The concession was given in 1929 as a temporary measure " subject to the condition that it will give the men concerned no claim to the continuance of this privilege after the new leave rules for State Railways are brought into force ". It was intended that when these rules were framed and issued, it would suffice to give the men concerned the option of electing for those rules. When the new leave rules were issued, therefore, the concession was withdrawn as the staff taken over from the Great Indian Peninsula Railway were given the option to come under them. Incidentally I might mention that neither the (old) Great Indian Peninsula Railway leave rules nor the new leave rules provide for this concession.

APPOINTMENTS IN THE SUPERIOR GRADES OF THE ASSAM-BENGAL RAILWAY.

77. **Mr. S. C. Mitra** : (a) Will Government please state the number of appointments in the superior grade of all departments of the Assam Bengal Railway made since 1924 up-to-date, stating names, qualifications,

district or province to which the officers belong, department in which engaged ?

(b) Will Government please also state whether these appointments were filled in by a selection board ? If so, who were the other candidates and what are their qualifications, etc. ?

(c) When there is any vacancy is there any system of advertising through the press ? If not, why not ? How are the candidates expected to know about vacancies ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

EMPLOYMENT ON THE ASSAM-BENGAL RAILWAY OF QUALIFIED PERSONS OF THE AREA THROUGH WHICH THAT RAILWAY PASSES.

78. **Mr. S. C. Mitra :** (a) Is it a fact that on the Company-managed Railways generally a practice is followed to recruit officers from qualified candidates in those places through which a particular Railway traverses ?

(b) If so, was there any candidate for any post on the Assam-Bengal Railway who belonged to that area through which the Railway passes ?

(c) If so, what are their qualifications and for what post they were candidates and why they were not appointed ?

(d) Is there any officer in any of the Departments who belongs to the area ?

(e) Do Government propose to issue instructions to the Assam-Bengal Railway to give preference to the qualified people of that area when any vacancy is filled up in future ?

(f) Do Government propose to issue instructions to all Company-managed Railways that whenever there is any vacancy it should be advertised through the press in order to enable all qualified candidates to apply for such posts ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

79. **Mr. S. C. Mitra :** (a) With reference to the reply to part (2) of starred question No. 535 of 16th September, 1929 (regarding employment on Indian Railways of Indians trained in England), asked by Kumar Ganganand Sinha, will Government please state :

(i) how many such candidates who were trained in the United Kingdom applied for nomination to the Local Governments for the examinations held in 1926 and 1927 and how many were rejected by the Local Governments ;

(ii) how many were selected by the Local Governments and what are the names of candidates nominated by the Local Governments for being sent to the Government of India ;

(iii) how many were allowed by the Public Service Commission to appear at the examination and how many rejected ; in the case of the latter on what grounds ;

(iv) how many were successful at the examinations and taken into the service ; and

(v) the names, qualifications, particulars of training, examinations passed at the London School of Economics and Political Science of each candidate who was allowed to appear at the Public Service Commission examination and those who were rejected ?

(b) Will Government please state the number of candidates who were appointed either in the Superior or Local Service of State Railways or Company-managed Railways since 1920 to date ?

(c) Will Government please state their names, qualifications, particulars of training and the Railways on which they are employed ?

Mr. P. R. Rau : (a) I am obtaining certain information and will lay a reply on the table in due course.

(b) and (c). The available information up to 1930 is given in the Railway Board's Classified List and Distribution Return corrected upto December, 1930, copies of which are in the Library of the House. A statement showing the names of officers appointed to the Superior Service on the State-managed Railways since 1st January, 1931, is attached. Similar information for Company-managed Railways is not available, but will be obtained and the information laid on the table in due course. The Local Service was abolished in March, 1931, and no appointments have been made to it since January, 1931.

Statement showing the names of the officers recruited to the Transportation (Traffic) and Commercial Departments of State-managed Railways during 1931 and 1932.

Names.	Railways.		Qualifications and particulars of training.
	<i>Europeans (Direct).</i>		
T. M. G. Wheeler	N. W. Railway	.. ..	B.Sc. (Eng.) (Leeds).
S. Marchant ..	G. I. P. Railway	.. ..	B.Sc. (Eng.) (London).
N. B. Scott ..	Burma Railways	. ..	2 years training as a student probationer in Traffic Department of Southern Railway.
Lt. H. A. Davies, R.E.	ਏ. ਐ. ਰੇਲਵੇ	.. ..	R. E. Officer.
A. F. M. Smith ..	ਏ. ਐ. ਰੇਲਵੇ	.. ..	B. A. Mathematical Tripos. Part I and Science Tripos. Class III Cambridge.

Name.	Railways.	Qualifications and particulars of training.
	<i>Indians (Through P.S.C.)</i>	
N. Y. Manohar ..	G. I. P. Railway	B. E. (Bombay).
M. K. Mohiuddin	Do.	B. A. (Hons.) (Madras).
Anand Mohan ..	E. I. Railway	B.Sc. (Allahabad).
Harbans Singh ..	N. W. Railway	Civil Engineering certificate ^W of Thomason Civil Engineering College, Roorkee.
Ratan Lal ..	E. I. Railway	Do.
M. D. Balaraman	N. W. Railway	B. A. (Hons.) (Madras).
P. H. Sarma ..	E. B. Railway	Do.
S. P. Lal ..	N. W. Railway	M. Sc. (Punjab).
M. A. Qadeer ..	G. I. P. Railway	B. A. (Hons.) (Madras).
S. V. M. Sunderam	E. I. Railway	M. A. (Madras).
	<i>Promoted to Superior Service.</i>	
	<i>Europeans.</i>	
H. A. Cox ..	Subordinate G. I. P. Railway ..	Promoted from the Lower Gazetted Service or subordinate establishment.
G. M. A. Shortt ..	Do. ..	
G. W. Tuffield ..	Do. ..	
	<i>Indians.</i>	
B. N. Bery ..	Local Service N. W. Railway ..	
M. L. Kaul ..	Do. ..	
A. A. Shah ..	Do. ..	
I. N. Puri ..	Do. ..	
S. P. Chowdhury	Local Service E. I. Railway ..	
J. N. Das ..	Do. ..	
G. P. Dullard ..	Subordinate E. I. Railway ..	
D. Vinayak ..	Subordinate G. I. P. Railway ..	
T. B. Chandwani	Subordinate N. W. Railway ..	
C. E. Wills ..	Do. ..	

EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

80. **Mr. S. C. Mitra :** (a) With reference to the reply to part (4) of starred question No. 535, dated 16th September, 1929, regarding appointments on Indian State Railways of Indians trained in England, will Government please state under what circumstances this candidate was nominated by a Local Government while he was not eligible under the rules ?

(b) Who was responsible for this nomination ?

(c) Will Government please state the particulars of his qualifications, training, etc. ?

(d) Is there any one in the local or superior service of State Railways or Company lines with similar qualifications ?

(e) Did Government pay any compensation for putting him to so much trouble, anxiety and worries ?

Mr. P. R. Rau : (a) Government of India have no information.

(b) The Selection Committee appointed by the Government of Bengal.

(c) His qualifications as given by the candidate himself were Matriculate of the London University and Diploma holder on Transport from London School of Economics. He had undergone traffic training in the United Kingdom for 20 months instead of 2 years as required by the rules.

(d) I would refer the Honourable Member to the reply given to part (a) of his question No. 365 on the 21st March, 1931.

(e) No. The case did not call for compensation.

EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

81. **Mr. S. C. Mitra :** With reference to the reply to part (5) of starred question No. 535, dated 16th September, 1929, regarding employment on Indian Railways of Indians trained in England, will Government please state whether any enquiry has since been made in this direction ? If so, will Government please state the result of the same ?

Mr. P. R. Rau : I would refer the Honourable Member to the reply given to part (a) of his question No. 365, on the 21st March, 1931.

EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

82. **Mr. S. C. Mitra :** (a) With reference to the reply to parts (7) and (10) of starred question No. 535 of 16th September, 1929 (regarding employment on Indian Railways of Indians trained in England) asked by Kumar Ganganand Sinha, do Government propose to recruit those who were trained in the United Kingdom ? If not, why not ?

(b) With reference to part (9) of the above-quoted question, do Government propose to recruit them in the local service if not in the Superior Service ? If not, why not ?

Mr. P. R. Rau : (a) I have nothing to add to my reply to parts 7, 9 and 10 of question No. 535, dated the 16th September, 1929.

(b) The question cannot arise as the Local Service has been abolished.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

83. **Mr. S. C. Mitra :** (a) With reference to the reply to unstarred question No. 362 (b), dated 21st March, 1931, regarding training of Indian students on British Railways, will Government please place on the table of the House the information communicated to Kumar Ganganand Sinha ?

Mr. P. R. Rau : A copy of the communication is in the Library of the House.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

84. **Mr. S. C. Mitra :** With reference to the reply to my unstarred question No. 367 (b) and (c), dated 21st March, 1931, regarding training of Indian students on British Railways, will Government please state whether the matter has since been examined ? If so, will Government please state the result ?

Mr. P. R. Rau : I would refer the Honourable Member to the Railway Board's letter No. 719-E.G., dated the 17th June, 1931, to his address, a copy of which is in the Library.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

85. **Mr. S. C. Mitra :** (a) With reference to parts (c) and (d) of my unstarred question No. 362, dated 21st March, 1931, regarding Indian students trained on British Railways, will Government please state whether in some cases certain students were not allowed by the High Commissioner for India to complete full two years' training on the plea that these candidates had already had some training while there was a long waiting list of candidates who had no training at all though the former candidates represented repeatedly to the High Commissioner that their candidature for service on Indian Railways would not be considered on their return under the rules, to which the High Commissioner did not pay any heed ?

(b) Will Government please state the number of such candidates and whether any of them were taken into the service of the State Railways ?

(c) With reference to part (f) (i) of question quoted in part (a), will Government please state whether the difference in rules was brought to the notice of such candidates who were undergoing training during 1924-26 ? If not, why not ?

(d) Is it a fact that some allowances and concessions were shown under similar circumstances in the case of the Indian Forest Service candidates who were trained and educated in the United Kingdom on Forestry, when new rules came into force in 1928 ?

(e) Why has this not been done in the case of Railways ?

(f) With reference to part (f) (ii) of question quoted above, will Government please state how many European candidates have been recruited since 1923 till now and what are their qualifications ?

(g) How long were they required to be on probation in India and how was it determined ?

Mr. P. R. Rau : (a) Government have no information beyond that conveyed in the Railway Board's letter No. 8613-E., dated the 21st December, 1929, in reply to part (7) of starred question No. 534 asked by Kumar Ganganand Sinha on the 16th September, 1929. A copy of this letter is in the Library.

(b) The available information is given in the reply to part (a) of the Honourable Member's question No. 365 on the 21st March, 1931.

(c) A copy of the revised rules was forwarded to the High Commissioner for India who must have taken such steps as were necessary to bring the change in the rules to the notice of Indian students undergoing training in England.

(d) and (e). The Honourable Member's attention is invited to the reply given to parts (e) and (f) of his question No. 367 on the 21st March, 1931.

(f) The number of European candidates recruited since 1923 to date is 12 (excluding R. E. Officers appointed in India). They possess one or other of the qualifications mentioned in reply to part (g) of the Honourable Member's question No. 362, dated the 21st March, 1931.

(g) Their probationary period was three years. The details are laid down in the rules for recruitment to the Transportation (Traffic) and Commercial Departments of the Superior Revenue Establishment of State Railways, copies of which are in the Library.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

86. **Mr. S. C. Mitra :** (a) With reference to the reply to parts (a) and (b) of my unstarred question No. 363, dated 21st March, 1931, regarding the training of Indian students on British Railways, will Government please state whether the revised rules were brought to the notice of the candidates undergoing training in the United Kingdom during 1924 and 1926 ?

(b) Is it a fact that the High Commissioner for India was fully aware of the fact that candidates with two years' training, as required by the revised rules, were not forthcoming ?

(c) If so, under what circumstances did he agree to the publication of the revised rules ?

(d) With reference to part (c) of the same question, will Government please state what happened to those limited number of candidates ?

Mr. P. R. Rau : (a) I would refer the Honourable Member to the reply given to part (c) of his question No. 85.

(b) and (c). I would refer the Honourable Member to the reply given to part (c) of his question No. 363 on the 21st March, 1931.

(d) Government have no information.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

87. **Mr. S. C. Mitra :** (a) With reference to the reply to parts (a) and (b) of my unstarred question No. 364, dated 21st March, 1932,

regarding the training of Indian students on British Railways, will Government please state what were the qualifications required under the revised rules of 1926 ?

(b) With reference to part (c) under the same question, will Government please state what was the necessity of enforcing this clause ? Were Government aware that such candidates were not forthcoming owing to the refusal of the High Commissioner to allow the candidates to apply ?

(c) Is it a fact that Indianisation of Railway services would have been rapid, if they had been taken into service instead of being kept under training for three years, had they all their training in the United Kingdom ?

Mr. P. R. Rau : (a) The Honourable Member is referred to the Regulations issued in 1926 for recruitment in India for the Transportation (Traffic) and Commercial Departments of the Superior Revenue Establishment of State Railways, copies of which are in the Library.

(b) I would invite the Honourable Member's attention to the reply given to parts (a), (b) and (c) of his question No. 363 on the 21st March, 1931.

(c) No.

EMPLOYMENT ON INDIAN RAILWAYS OF INDIANS TRAINED IN ENGLAND.

88. **Mr. S. C. Mitra :** (a) With reference to the reply to part (b) of my unstarred question No. 366 of 21st March, 1931, regarding Indians trained on British Railways, will Government please state whether it is a fact that officers in the Traffic Department of State Railways, who passed Examinations on Transport at the London School of Economics and Political Science, University of London, get some preference over others regarding promotion ?

(b) If so, will Government please state whether in the case of those Indian students who passed such examinations, they are given the same privileges ? If not, why not ?

(c) With reference to part (d) under the same question, is it a fact that such information can be had from the applications of such candidates or from the High Commissioner for India ?

(d) With reference to part (f) of the same question, is it a fact that the Railway Board registered the names of such students as prospective candidates ?

(e) Is it a fact that some of the candidates were asked by the Railway Board to renew their applications later on, furnishing particulars about age, family, qualifications, etc. ?

(f) Is it a fact that some of the candidates were asked to apply on completion of their training and return to India ?

(g) Is it a fact that some of the candidates were told in 1924 and 1925 that rules governing future recruitment were under revision ? If so, did Government inform them the lines on which such rules are being revised ? If not, why not ? Are Government aware that candidates being ignorant of the revision of rules could not fully qualify themselves as required under the revised rules ?

(h) With reference to parts (g) and (h) under the same question, is it a fact that in the circular letter issued to the principal Company-managed Railways it was stated that these candidates received training in the United Kingdom ?

Mr. P. R. Rau : (a) No.

(b) Does not arise.

(c) Possibly : but Government do not think that any public purpose will be served by obtaining such information

(d) A register of candidates was maintained but it was discontinued in 1926 when recruitment through the Public Service Commission commenced.

With regard to parts (e) and (f) and the first part of (g), Government are unable to trace any such communications.

As regards the rest of part (g) I would refer the Honourable Member to the reply given to part (c) of question No. 87.

(h) Yes.

TRAINING OF INDIAN STUDENTS ON BRITISH RAILWAYS.

89. **Mr. S. C. Mitra :** (a) With reference to part (a) of my unstarred question No. 367 of 21st March, 1931, regarding training of Indian students on British Railways, will Government please state the result of their examination ?

(b) With reference to parts (b) and (c) of the same question, will Government please state whether the question has since been examined ? If so, will Government please place the result before the House ?

(c) With reference to part (f) of the same question, are Government aware that the supply to which Government have taken recourse and think adequate proves to be expensive due to each probationer so recruited having to be given training for three years before they are declared fit to take charge ?

(d) Will Government please state the average total cost required for the training of each probationer during this period of three years ?

(e) What is the total cost up to date since the revised rules were introduced ?

(f) Is it a fact that the Railway Staff College at Dehra Dun has been closed down ?

(g) What was the total cost of this Institute to train up probationers and officers ?

(h) How will the probationers be trained now and what will be the cost ?

(i) Do Government propose to cut down this heavy expenditure at this time of financial stringency by recruiting from amongst those candidates who were trained in England ? If not, why not ?

(j) With reference to part (g) of the same question, what is the objection to take them in the superior service ? Are Government prepared to take them in the local service ?

Mr. P. R. Rau : (a) and (b). I would refer the Honourable Member to the Railway Board's letter No. 719-E.G., dated the 17th June, 1931, to his address, a copy of which is in the Library.

(c) In the opinion of Government, the arrangements actually made for recruitment were satisfactory.

(d) and (e). The pay drawn by a probationer during his three years' training amounts to Rs. 12,600, no separate account has been kept of other cost incurred on the training of each probationer. Out of 35 probationers appointed in this department since 1926, 19 have completed their training and 16 are still under training

(f) Yes.

(g) No separate account was kept of the cost incurred on the training of probationers and officers.

(h) The question of the arrangements to be now introduced for the training of probationers is under consideration.

(i) No. Government consider that the present method of recruitment is, taking all circumstances into consideration, the most suitable.

(j) The first part is answered by the reply to item (i) above. With regard to the second part, the local service has been abolished and the new Lower Gazetted Service created is essentially meant to be filled by the promotion of deserving subordinates.

SURPLUS STORES LOCKED UP ON STATE RAILWAYS, ETC.

90. **Mr. Gaya Prasad Singh :** (a) Will Government be pleased to lay on the table statements of amounts locked up in surplus stores on (i) State Railways, and (ii) other State-owned Railways but managed by companies ?

(b) Will Government kindly state the amount written off due to the scrapping of surplus material during the last three years on the State Railways ; and was it ascertained before scrapping that the material was not required by other Railways ?

(c) Are Government aware that in view of the slump in traffic and closing down of constructions, etc., the surpluses have increased ?

(d) Will Government please state what action is being taken by them to reduce the amount of surplus stores ?

Mr. P. R. Rau : The information asked for by the Honourable Member is being obtained and will, when received, be laid on the table.

PROPOSAL FOR A RAILWAY LINE BETWEEN MANJHI AND ANY OTHER POINT IN THE SARAN DISTRICT.

91. **Mr. Gaya Prasad Singh :** Is there any proposal to open a new Railway line by the Bengal and North Western Railway between Manjhi,

and any other point in the District of Saran, Bihar, to facilitate the opening of new sugar factories in that area ?

Mr. P. R. Rau : The Government of India are not aware of any such proposal.

PAUCITY OF MUSLIM CLERKS IN THE CURRENCY OFFICE, CALCUTTA.

92. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government please state whether it is a fact that there is no Muslim in the cadre of clerks in the Currency Office at Calcutta ? If so, why ?

(b) How many vacancies have there been during the last five years, and by whom have they been filled up ?

The Honourable Sir Alan Parsons : (a) There are four Muslim clerks in the Currency Office, Calcutta.

(b) A statement is laid on the table.

Year.	Number of vacancies.	How they were filled.		
		Hindus.	Muslims.	Europeans and Anglo-Indians.
1927	4	4 (a)	..	..
1928	10	10 (a)	..	..
1929	5	3	1	1
1930	4	1	2	1
1931	3	1	2	..

(a) Confirmation of men who have been officiating for a long time.

MUSLIM RAJPUT POPULATION IN PROVINCES.

93. **Kunwar Hajee Ismail Ali Khan :** With reference to my starred question No. 127 of 8th September, 1932, regarding the Muslim Rajput population of certain provinces, will Government kindly be good enough to lay on the table the figures of other Provinces ?

The Honourable Mr. H. G. Haig : No further particulars are available beyond those supplied in reply to the Honourable Member's starred question No. 127 on the 8th instant.

PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

94. **Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

(a) the date and year, when the Governor General decided that Nawab Nazims of Bengal, Bihar and Orissa, were not entitled to alienate the Nizamut properties ;

- (b) whether after the aforesaid decision any Nawab Nazim was informed not to confer *jageers*, gifts, or endow Nizamut properties for religious purposes ;
- (c) whether the decision of the Governor General was notified in the Government gazette, or whether the Nawab Nazim was officially informed that properties of a certain description were considered inalienable ; and
- (d) whether the so-declared Nizamut State properties were taken out of the possession of those who received the *jageers* or gifts, or were Motawallies of endowments appointed immediately after the decision of the Governor General ; if so, when such step was taken in the matter ?

Mr. H. A. F. Metcalfe : The information asked for is being collected and will be laid on the table in due course.

PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

†95. **Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

- (a) whether the title deeds of all the Nawab Nazims and Nizamut State properties were available, when the Commissioners, who were appointed under Nawab Nazim of Bengal's Debts Act of 1873, were preparing a list of the properties ;
- (b) if the title deeds of all the properties were not available, by what other means the Commissioners differentiated the Nizamut State properties from Nawab Nazim's private properties ; and
- (c) whether the Commissioners submitted a list of Nawab Nazim's private properties ; if so, whether a copy of the list is available ?

PROPERTIES OF THE NAWAB NAZIMS OF BENGAL AND BIHAR AND ORISSA.

†96. **Mr. Nabakumar Sing Dudhoria :** Will Government be pleased to state :

- (a) whether the properties purchased or *puttanees* acquired by the last Nawab Nazim were considered by the Government inalienable, and unsaleable, or untransferable ; and
- (b) whether a list can be furnished of properties, purchased or acquired, by the last Nawab Nazim, by virtue of a deed of compromise or settlement in a law suit, or by *puttanees* taken by His Highness ?

DISCHARGE OF TEMPORARY EMPLOYEES OF THE CURRENCY OFFICE, LAHORE.

97. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state if the whole temporary staff employed in the Lahore Currency Office was discharged in the year 1929 ?

(b) If the reply to part (a) is in the affirmative, what was the number of Hindu and Muslim employees then discharged ?

†For answer to this question, see answer to question No. 94.

(c) Is it a fact that after the date of discharge of the establishment mentioned in part (a), new temporary appointments were made in the above Currency Office ? If so :

(i) what is the number of such appointments made upto date ; and

(ii) how many of these posts were given to Hindus and how many to Muslims ?

(d) Were any of the men previously discharged in 1929 re-employed ? If so :

(i) how many of them were Hindus and how many Muslims ; and

(ii) what were the periods of previous service of Hindus re-employed and Muslims who were not re-employed ?

The Honourable Sir Alan Parsons : The information asked for is being collected.

MUSLIM STAFF IN THE CURRENCY OFFICE, LAHORE.

†98. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state the total strength of the permanent staff in the Lahore Currency Office from the Currency Officer to the inferior staff ?

(b) What is the number of posts held by Muslims and Hindus in each category ?

(c) Is there any proposal under consideration to reduce the present permanent staff of the above Currency Office ?

(d) If the reply to part (c) is in the affirmative, what steps do Government propose to take to ensure that the existing Muslim proportion in the Currency Office staff is not decreased by any proposed reduction in the total strength ?

(e) Are Government prepared to issue special instructions to the Currency Officer, Lahore, in the matter ?

SUPERSESSION OF MUSLIMS BY CERTAIN HINDUS IN THE CURRENCY OFFICE, LAHORE.

†99. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government kindly state if there are any instructions to the effect that senior members of the staff of Currency Offices in India should be trained for work in the various branches of a Currency Office ?

(b) Are senior Muslim members in the Lahore Currency Office provided facilities to get such training ? If not, why not ?

(c) If the reply to (b) above is in the affirmative, will Government kindly state if three Hindu clerks of the above office, viz. Messrs. Hari Ram, Gopi Lal and Sham Lal, were allowed to supersede Muslim employees who were senior to them in length of service ?

(d) Was not the supersession in each case made on the plea that the senior Muslim employees superseded did not possess the proper training required for the discharge of new duties ?

†For answer to this question, see answer to question No. 97.

MUSLIM GAZETTED OFFICER INCHARGE OF THE ADMINISTRATION BRANCH OF THE OFFICE OF THE ACCOUNTANT GENERAL, PUNJAB.

100. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government kindly state if there are any instructions debarring Muslim gazetted officers from holding charge of an administration branch of a Civil Accounts Office ?

(b) If not, has any Muslim gazetted officer held charge of the administration branch of the office of the Accountant General, Punjab, during the last ten years ? If so, for how long did he hold that charge ?

(c) Have there been any Muslim gazetted officers in the above office during the last ten years ? If so, why was the Administration Branch never put under the charge of a Muslim officer ?

The Honourable Sir Alan Parsons : (a) No.

(b) Yes. Three Muslim officers have been in charge of the various administrative branches for varying periods during the last ten years.

(c) The reply to the first part of the question is in the affirmative. The statement in the second part is incorrect.

NON-APPOINTMENT OF MUSLIMS IN THE REFORMS OFFICE.

101. **Kunwar Hajee Ismail Ali Khan :** (a) Will Government be pleased to state what is the total strength of the office of the Reforms Commissioner with the Government of India ?

(b) What is the number of Assistants and how many of them are Muslims ?

(c) Is it a fact that no Muslim has worked continuously in that office as an Assistant since its creation ?

(d) Is it a fact that the only Muslim Assistant working in that office was sent out on deputation to the Consultative Committee and his post has been filled up by a non-Muslim ? If so, why ?

The Honourable Mr. H. G. Haig : (a) The Reforms Office is a temporary Office. The office staff sanctioned for the current year is :

- 1 Superintendent ;
- 5 Assistants ;
- 6 Clerks and Typists ;
- 2 Stenographers.

(b) Of the five Assistants two are Hindus, one is a Muslim, one Anglo-Indian and one Sikh.

(c) and (d). The Muslim Assistant was lent to the Consultative Committee when it was constituted in January last. He reverted to the Reforms Office on the 16th of this month. The vacant post of Assistant caused by his employment in the Consultative Committee was not filled during the greater part of his absence.

SELECTION OF STAFF FOR COMMISSIONS AND COMMITTEES FROM THE REFORMS OFFICE.

102. **Kunwar Hajee Ismail Ali Khan :** Is it also a fact that when personnel is selected for Commissions or Committees appointed by Gov-

ernment under the Reforms, the staff working in the Reforms Office is invariably deputed for such work and men working in the Secretariat are rejected ? If so, why ?

The Honourable Mr. H. G. Haig : The Commissions and Committees to which apparently the Honourable Member refers have recruited their own staff under their own authority. The Franchise Committee recruited an accountant and two clerks and the Consultative Committee one Assistant from the staff of the Reforms Office. These are the only instances.

COMPLAINTS AGAINST THE SUPERINTENDENT OF POST OFFICES, SALEM.

103. **Mr. Bhuput Singh :** (a) With reference to the reply given by Mr. T. Ryan to starred question No. 455 on the 22nd February, 1932, will Government please state the result of enquiries made into maladministration of Lieut. Shujat Ali Saib, Post Office Superintendent, Salem ?

(b) What action do Government propose to take against the conduct of this officer ?

Mr. T. Ryan : (a) and (b). In view of the reply given to part (a) of the Honourable Member's starred question No. 455 on the 22nd February, 1932, the question of maladministration does not arise. As regards the matter referred to in parts (b) and (c) of the above question, his attention is invited to the final replies laid on the table of this House on the 5th April, 1932, in connection with his starred questions Nos. 515 and 516 on the 14th March, 1932.

DEVELOPMENT OF THE IMPERIAL INSTITUTE OF DAIRYING AT BANGALORE.

104. **Rao Bahadur M. C. Rajah :** With reference to their assurance given to the House on 12th February, 1932, will Government please state if it is now finally decided to allow the Imperial Institute of Dairying to continue at Bangalore ? If so, what further steps are Government taking towards its development ? Is this institute looked upon by Government, as a purely teaching institute or as a commercial concern also ?

Mr. G. S. Bajpai : The Imperial Institute of Animal Husbandry and Dairying, Bangalore, is to continue at Bangalore, though it is not possible to develop it in present conditions. Its main functions are research and teaching in dairying and allied subjects.

ORGANISATION, ETC., OF THE IMPERIAL INSTITUTE OF DAIRYING, BANGALORE.

105. **Rao Bahadur M. C. Rajah :** What is the present organization of the Imperial Institute of Dairying, Bangalore and the designation of the controlling officer ? What is the exact nature of the duties of this officer in so far as the advancement of the dairy industry is concerned ?

Mr. G. S. Bajpai : The Imperial Institute of Animal Husbandry and Dairying, Bangalore, comprises two Sections devoted to (i) Animal Husbandry and Dairying, and (ii) Animal Nutrition, respectively. The former Section is under the control and supervision of the Imperial Dairy Expert, and has attached to it a Dairy Farm, which is managed by a Superintendent, who assists in the teaching and research work. The Nutrition Section is in the charge of the Physiological Chemist, who is

assisted in his research and teaching work by a Class II Assistant. The duties of the Imperial Dairy Expert are :

- (i) to control the cattle-breeding farms and dairying operations at Bangalore, Wellington and Karnal ;
- (ii) to supervise dairy instruction at the three farms referred to above ;
- (iii) to work for the improvement of dairy methods in India ; and
- (iv) generally to advise and assist Local Governments, provincial officers and private concerns as well as Indian States in dairying matters when called upon to do so.

Both Sections are under the general administrative control of the Director, Imperial Institute of Agricultural Research, Pusa.

RELATION OF THE DAIRY DEPARTMENT OF THE GOVERNMENT OF INDIA WITH THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

106. **Rao Bahadur M. C. Rajah** : In what way is the Dairy Department of the Government of India related to the Imperial Agricultural Research Council, to which reference was made by H. E. the Viceroy in his opening speech in the Assembly on the 5th September, 1932 ?

Mr. G. S. Bajpai : The Dairying Section of the Imperial Institute of Agricultural Research, to which the Honourable Member is presumably referring, is under the administrative control of the Department of Education, Health and Lands. The Department, however, consults the Imperial Council of Agricultural Research, when necessary, in connexion with the affairs of the Section.

DEVELOPMENT OF CATTLE DAIRYING DEPARTMENT.

107. **Rao Bahadur M. C. Rajah** : Are Government aware that the cattle breeding industry in this country is in a very unsatisfactory condition ? If so, have Government considered the question of giving their earnest attention to the further development of the cattle Dairy Department ?

Mr. G. S. Bajpai : The Government of India are aware that there is room for improvement in the cattle breeding industry, and both they and the Local Governments are doing what they can, with limited resources, to effect it.

IMPORTATION OF DAIRY PRODUCTS INTO INDIA FROM ABROAD.

108. **Rao Bahadur M. C. Rajah** : Are Government aware that various dairy products are imported into India in large quantities from abroad every year and that at the same time there is a great wastage of milk produced in rural areas in this country ? Has any attempt been made to manufacture these products at any of the Government institutions in this country ; and, if so, with what results ? Will Government please state nature, quantity, and value of such dairy products imported into India ?

Mr. G. S. Bajpai : Yes, except that in regard to the alleged wastage of milk in rural areas Government have no definite information. ' So far as Government of India Institutions are concerned, butter and cheese are already manufactured at the dairy research stations of the Imperial

Institute of Agricultural Research, under the Imperial Dairy Expert, and experiments are also being made in the manufacture of other dairy products. A scheme for establishing a research station dealing with this branch of the subject at Anand in Gujerat is also under the consideration of the Imperial Council of Agricultural Research. It is regretted that no information is available showing what Local Governments are doing in the matter. The import figures of dairy products during the year 1931-32 are given below :

Article.	Quantity (in cwts.).	Value (in rupees).
Butter	3,570	5,42,397
Cheese (including canned)	7,249	6,33,457
Ghee	2,415	1,31,557
Milk, condensed and pre- served (including milk cream) .	185,925	57,32,702

PREMATURE SLAUGHTER OF THE BEST TYPE OF MILCH ANIMALS.

109. **Rao Bahadur M. C. Rajah :** Has the attention of Government been drawn to the criticism frequently made in the Press on the unsatisfactory state of the milk supply in urban areas and the enormous drain on the cattle wealth of the country by the premature slaughter of the best type of milch animals, which the present system involves ? Have Government taken any action to counteract the evil effects resulting from the system ?

Mr. G. S. Bajpai : The Royal Commission on Agriculture drew attention to the unsatisfactory state of the milk supply in urban areas, and Government have no doubt that there is much room for improvement. The problem is, however, in the main one for Local Governments and Municipalities, and available information as to the extent to which they have dealt with it is shown at pages 20—21 and 31—33 of the First and Second Reports relating to the action taken on the recommendations of the Royal Commission on Agriculture. Copies of the reports are available in the Library of the House.

EXEMPTION OF OLD SHOPKEEPERS OF CANTONMENTS FROM TAKING LICENCES FOR TRADE.

110. **Sirdar Sohan Singh :** (a) Is it a fact that section 210 (3) of the Cantonments Act contemplates the grant of a concession to old shopkeepers of cantonments in exempting them from the obligation of taking out licences for trades mentioned in section 210 (1) of the Cantonments Act ?

(b) Is it a fact that under section 210 (3) quoted above such shopkeepers are required to take out a licence, only if a notice of not less than three months is given to them by the Cantonment Authority, requiring them to take out a licence ?

(c) Will Government state what are the considerations that determine the issue of a notice referred to above ?

(d) Is it a fact that in several cantonments, three months' notice is indiscriminately issued to all old shopkeepers ?

(e) Are Government aware that this indiscriminate issue of notices is considered by the people as a complete violation of the spirit of section 210 (3) of the Act ?

(f) Is it a fact that such indiscriminate notices have been issued at Deolali and Allahabad ?

(g) Will Government explain the reasons for taking such a step ?

(h) Are Government aware of the discontent caused by the above action ? If so, do Government propose to issue instructions to the effect that this concession be not interfered with, unless there be sufficient reasons compelling the withdrawal of the concession ?

Mr. G. R. F. Tottenham : The attention of the Honourable Member is invited to the answer given by Mr. G. M. Young to starred question No. 667, on the 23rd September, 1931, which explains the whole position. No separate representation has been received regarding the Allahabad case, but in view of the reply referred to, Government do not consider it necessary to examine that case.

ALLEGED RUDE BEHAVIOUR OF THE PRESIDENT, CANTONMENT BOARD, LUCKNOW.

111. **Sirdar Sohan Singh :** (a) Has the attention of Government been drawn to a statement published under the signature of the Vice-President and four other elected members of Lucknow Cantonment, on pages 27, 28 and 29 of the *Cantonment Advocate* for July, 1932, under the Heading "Alleged Rude Behaviour of the President, Cantonment Board, Lucknow" ?

(b) Will Government please state if the facts are as given in the statement ? If not, what are the facts regarding this incident ?

Mr. G. R. F. Tottenham : (a) Government have seen the article.

(b) I have called for a report and will lay the reply on the table in due course.

SEGREGATION OF PATIENTS SUFFERING FROM INFECTIOUS DISEASES IN CANTONMENTS.

112. **Sirdar Sohan Singh :** (a) Has the attention of Government been drawn to an article published on page 26 of the *Cantonment Advocate* for May, 1932, under the heading "Alleged abuse of Section 175 of Cantonments Act" ?

(b) Is it a fact that a young man of a very respectable family suffering from small-pox was forcibly removed from his house to the Cantonment infectious diseases huts ?

(c) Are Government aware that the huts of the Cantonment Board were insanitary and situated in a lonely place ?

(d) Is it a fact that the grandfather of the boy offered to take him outside Nowgong Cantonment, if his segregation was not arranged in his house but this request was not granted ?

(e) What is the policy of Government with regard to the segregation of such patients in cantonments ?

(f) Why was the segregation of the patient not arranged in this case in his house ?

(g) Do Government propose to inquire into the case and stop such forced segregation in huts ?

Mr. G. R. F. Tottenham : (a) Government have seen the article.

(b) to (g). The information has been called for and a reply will be laid on the table in due course.

LEGALITY OF IMPOSING WATER-TAX ON HOUSES WITHOUT WATER CONNECTIONS IN CANTONMENTS.

113. **Sirdar Sohan Singh :** (a) Is it a fact that in most cantonments water-tax is charged even from occupiers of houses taking their water-supply from public hydrants ?

(b) Are Government aware that under section 217 read with section 220 of the Cantonments Act, water-tax can be imposed only in case of houses having water-connections ?

(c) Are Government aware that in municipalities water-tax is not levied upon persons depending for their water-supply on public hydrants ?

(d) Do Government propose to examine the question and take legal advice as to the legality of imposing water-tax on houses other than those having water connections ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) The Government do not admit the correctness of the Honourable Member's interpretation of the sections quoted.

(c) No.

(d) No.

PLATFORMS IN FRONT OF SHOPS OR HOUSES IN THE BAZARS OF CANTONMENTS.

114. **Sirdar Sohan Singh :** (a) Is it a fact that in the conference of the representatives of Government with the members of the All-India Cantonments Association in June, 1929, Government made a clear declaration that a Cantonment Authority was the final authority about the interpretation and application of the Government Circular No. 31622/1 (A.D.), dated 19th February, 1926, about the condonement of platforms in front of shops or houses in the bazars of cantonments ?

(b) Are Government aware that the Northern Command has issued a Circular to all the Cantonment Authorities that in disregard to the lists of condoned platforms prepared by a Cantonment Authority, the Cantonment Authorities under that Command should only recognise those platforms as are given in the G. L. R. ?

(c) Is it a fact that as a result of the above circular the platforms shown as condoned in the G. L. R. are less in number and dimensions than those given in the list of condoned platforms prepared by the Cantonment Authorities ?

(d) Are Government aware that as the Cantonment Authorities' lists have been followed ever since the receipt of the above Circular in 1926, their sudden abandonment in compliance with the Command's circular has caused a lot of discontent among those owners of houses who have not yet been able to utilise their condoned platforms according to the lists of the Cantonment Authorities ?

(e) Do Government propose to issue instructions that the Cantonment Authorities' lists should stand as before ?

Mr. G. R. F. Tottenham : (a) and (b). Yes.

(c) and (d). Government have no information.

(e) No, but as a result of the recent conference with members of the Association, Government are considering the general question of the condonation of platforms and they hope to issue instructions in due course, which will cover the case of all platforms.

MILITARY SUB-ASSISTANT SURGEONS IN HOSPITALS MAINTAINED BY CANTONMENT AUTHORITIES.

115. **Sirdar Sohan Singh :** (a) Is it a fact that as a rule military sub-assistant surgeons are at present posted in hospitals maintained by Cantonment Authorities from the Cantonment Fund ?

(b) Are Government aware that most of the Cantonment Authorities desire to do away with this arrangement and to appoint their own doctor in place of those military doctors that are lent ?

(c) Are Government aware that the military doctor is of the status of a sub-assistant surgeon and the Cantonment Authorities can appoint an assistant surgeon on the same pay or with a slight increase in it ?

(d) Are Government aware that the Cantonment Authority of Ambala appointed its own doctor—an assistant surgeon—some years ago ?

(e) Is it a fact that after the Cantonment Authority of Ambala appointed its own doctor in its hospital, Government issued a circular to the Cantonment Authorities not to alter the old arrangement ?

(f) Is it a fact that recently the Cantonment Authority of Lucknow passed a resolution to appoint its own doctor but the Eastern Command rescinded the resolution under section 51 of the Cantonments Act ?

(g) Is it a fact that on the All-India Cantonments Association representing this matter to Government, Government replied that the old

arrangement was desirable from the military point of view for keeping the reserve of military doctors in Cantonment Authorities' hospitals ?

(h) Are Government aware that Cantonment Authorities hospitals are maintained from the Cantonment Fund and exist primarily for the civil population of the cantonments ?

(i) Are Government aware that cantonment people interpret this action as an unwarranted interference of Government in matters pertaining to the welfare of the civil population ?

(j) Do Government propose to re-consider their policy in this matter and to give the Cantonment Authorities a free hand to run their hospitals ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) No.

(c) The reply to the first part is in the affirmative. Government have no information with regard to the second part.

(d) Yes.

(e) The reply is in the affirmative.

(f) and (g). The All-India Cantonments Association recently informed Government that the Cantonment Board, Lucknow, had passed such a resolution and that a reference was being made to the General Officer Commanding-in-Chief, the Eastern Command, on the subject. Government have no further information.

.. (h) Yes.

(i) Government have no information.

(j) Government do not consider that any change in the existing system is desirable.

RENT OF THE BUILDING OCCUPIED BY THE CONTROLLER OF MILITARY ACCOUNTS, LAHORE DISTRICT.

116. **Sirdar Sohan Singh :** (a) Will Government be pleased to state the total amount of rent per annum paid for the two hired buildings on the Mall, Lahore, occupied by the Controller of Military Accounts, Lahore District ?

(b) Are Government aware of the fact that several buildings in the Napier Barracks and other places in Lahore Cantonment can be made available for this office, if it is shifted from the city to cantonment ?

(c) If answer to part (b) is in the affirmative, are Government prepared to consider this measure of economy in these days of financial stringency ?

The Honourable Sir Alan Parsons : (a) Rs. 34,380 per annum.

(b) No.

(c) Does not arise.

ANNUAL REPORTS ON THE PROGRESS OF EDUCATION IN THE CANTONMENTS.

117. **Sirdar Sohan Singh :** (a) Are Government aware of the fact that the Inspecting Officer of cantonments in a Command devote very little attention to the spread of primary education among male and female children in cantonments and their reports contain no valuable information on this important subject ?

(b) Are Government aware that the Cantonment Boards in the Northern Command with a military majority are devoting very little attention to this subject ?

(c) Is it also a fact that in the Northern Command no Cantonment Board is spending a percentage equal to that in the neighbouring municipality under this head ?

(d) If so, are Government prepared to issue annual reports on the progress of education in the cantonments of each Command with special reference to educational finance ?

Mr. G. R. F. Tottenham : (a) No, Sir.

(b) No.

(c) Government have no information, but have already impressed upon Cantonment Authorities the desirability of spending a fair proportion of their funds on education.

(d) Local Governments have already agreed to deal specifically with this matter in their annual reports on education to which attention is invited.

APPOINTMENT OF DOCTORS BY CANTONMENT BOARDS.

118. **Sirdar Sohan Singh :** (a) Will Government be pleased to state whether it is a fact that the Cantonment Boards of Jullundur, Lahore, Ferozepore, Sialkot and Rawalpindi are not free to appoint their own hospital assistants (doctors) in their local civil hospitals and dispensaries ?

(b) Is it a fact that the military personnel forced on them belong only to the sub-assistant surgeon class with school education and no college or university degree ?

(c) Are Government aware that at the present scale of pay these Cantonment Boards can employ M.B., B.S., doctors with much higher qualifications in their respective hospitals ?

(d) Are Government prepared to issue instructions to the effect that Cantonment Boards be allowed to appoint their own doctors ?

Mr. G. R. F. Tottenham : (a) and (b). Appointments of Assistants to medical officers in charge of Cantonment hospitals or dispensaries are generally reserved for military sub-assistant surgeons who are not necessarily graduates.

(c) Government have no information.

REPORT OF MR. K. M. HASSAN REGARDING THE REPRESENTATION OF MUSLIMS
IN RAILWAY SERVICES.

119. **Sir Zulfiqar Ali Khan :** Will Government please state :

- (a) whether the report of Mr. K. M. Hassan regarding the representation of Muslims in Railway services has been considered ;
- (b) whether any decision has been arrived at regarding the recommendations made in that report ;
- (c) the extent to which the various recommendations have been accepted ; and
- (d) when it is proposed to bring into effect the recommendations if any which have been accepted ?

Mr. P. R. Rau : (a) to (d). The report is still under the consideration of the Government of India.

EXCESSIVE RETRENCHMENT OF MUSLIMS ON THE NORTH WESTERN RAILWAY.

120. **Sir Zulfiqar Ali Khan :** (a) Are Government aware that in August, 1931, the Agent, North Western Railway, issued a letter No. 831-E, dated August, 1931, to all Divisional Superintendents in which the Agent admitted that the number of subordinate Muslim employees retrenched was more than their existing proportion in the subordinate services warranted, i.e., 226 Muslims have been retrenched instead of 177 ?

(b) Will Government please state if the deficiency caused in the proportion of Muslims by excessive retrenchment of Muslims has been made good ; if so, how ?

Mr. P. R. Rau : (a) Government are not aware of any such letter issued by the Agent. The point referred to was noticed by the Railway Board in July, 1931, and pointed out to the Agent with the request "that the excess in the number of Muslims discharged be adjusted when recruitment is resumed by recruiting a correspondingly larger number of Muslims".

(b) Government have no information but the instructions issued in connection with the retrenchment authorized in the Government of India Communiqué, dated the 6th June, 1932, also provide for such adjustments in ordering discharges in each unit, as may be necessary in order to maintain the communal proportions approximately at the least they stood prior to the last year's retrenchment.

MUSLIM REPRESENTATION IN CERTAIN DEPARTMENTS OF THE NORTH WESTERN
RAILWAY.

121. **Sir Zulfiqar Ali Khan :** (1) Will Government please state if it is a fact that on the North Western Railway there is not a single Muslim in the lower gazetted services (a) of the Traffic Department, (b) of the Engineering Department, (c) of the Accounts Department, and (d) of any Department ?

(2) Is it a fact that there is not a single Muslim Assistant Personnel Officer on the whole of the North Western Railway ?

(3) Will Government be pleased to state whether they propose to take any steps to appoint some Muslims to lower gazetted services ?

Mr. P. R. Rau : (1) There is only one Muslim officer in the Lower Gazetted Service on the North Western Railway at present. He is employed in the Transportation (Traffic) and Commercial Departments.

(2) Yes.

(3) Promotions to Lower Gazetted Services are made by selection from deserving subordinates irrespective of communal consideration.

DUTIES OF THE PERSONNEL OFFICER OF THE HEADQUARTERS OFFICE, NORTH WESTERN RAILWAY, LAHORE.

122. Sir Zulfiqar Ali Khan : (a) Are Government aware of the duties entrusted to the Personnel Officers of the Headquarters Office, North Western Railway, Lahore ?

(b) Is it a fact that the personal matters of all the subordinates of the North Western Railway are done by European Personnel Officers and personal matters of officers are done by a personnel officer who is a Hindu and the Muslim Personnel Officer is entrusted with the general duties such as welfare, sports and such like other miscellaneous work ?

(c) If the answer to the above is in the affirmative, will Government please state whether they intend to fulfil their promises of appointing the Personnel Officers in effective control of personal matters of staff ?

Mr. P. R. Rau : I would refer the Honourable Member to the reply given to question No. 676 asked by Mr. Muhammad Muzzam Sahib Bahadur on the 7th March, 1932.

CHECK OF THE WORK IN CONNECTION WITH THE ISSUE OF PASSES ON THE NORTH WESTERN RAILWAY.

123. Sir Zulfiqar Ali Khan : (a) Will Government be pleased to state if it is a fact that on the North Western Railway the work in connection with issue of passes is checked periodically by the staff under the Chief Accounts Officer and the Divisional Accounts Officers ?

(b) Is it a fact that this work is also checked periodically by staff under the Chief Auditor, Statutory Audit ?

(c) Is it a fact that recently the Agent, North Western Railway, has started a third periodical check of pass work by a special head clerk of his own office ?

(d) Is it a fact that the grade of this special head clerk and his assistant has been substantially increased on this account ?

(e) Is it a fact that extra expenditure is being incurred on the additional pay and travelling allowance of the staff of the Agent's office who check the pass work ?

(f) Are Government prepared to consider whether the triplicate check by the Agent's office be stopped forthwith and the extra expenditure saved ?

Mr. P. R. Rau : (a) Yes, once in three years.

(b) Yes.

(c) The check by the headquarters office was introduced in May, 1929, and is made once a year, provided the particular office has not been checked by Accounts during that year.

(d) With effect from 1st May, 1930, the scale of pay of the Head Clerk of the Pass Section of the Headquarters Office was altered from Rs. 215—15—275 to Rs. 285—15—330 and of the First Assistant from Rs. 100—5—140 to Rs. 160—10—200, not only on account of the inspection work undertaken by the Head Clerk but also on account of the general increase in work and responsibility of the Pass Section.

(e) Only the Head Clerk of the Pass Section is occasionally deputed to inspect the pass work of the subordinate offices. The extra expenditure involved is only the travelling allowance paid to him.

(f) The question will be considered.

RETENTION OF THE POST OF OFFICE SUPERINTENDENT OF CONSTRUCTION, NORTH WESTERN RAILWAY.

124. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state if it is a fact that the Superintendent in the grade, 400—20—500 in charge of the offices of Divisional Superintendents or in charges of Branches of the Agent's office, that is Commercial, Transportation, etc., have nearly one hundred clerks or more under them ?

(b) Is it a fact that the office Superintendent of Construction on the North Western Railway had about a year ago nearly same number of men under him ?

(c) Is it a fact that the construction programme has been very considerably curtailed and separate construction branch has been abolished ?

(d) Is it a fact that the posts of Chief Engineer, Construction, Deputy Chief Engineer, Construction, and many other Engineers have been abolished ?

(e) Is it a fact that there are now only about a dozen clerks left who have to complete the balance of construction work ?

(f) Is it a fact that the post of office Superintendent is still retained although all his clerical staff is nearly gone ?

(g) Are Government prepared to consider the question of the abolition of the post of office Superintendent of Construction ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

ALLEGED DIFFERENTIAL TREATMENT IN CONNECTION WITH THE FILLING UP OF LEAVE VACANCIES ON THE NORTH WESTERN RAILWAY.

125. **Sir Zulfiqar Ali Khan :** (a) Is it a fact that it is an established practice in the Headquarters Office, North Western Railway, Lahore, as well as in Divisions that sectional arrangement is always made for promotion in connection with the leave vacancy for a period of four months or less than four months ?

(b) Is it a fact that a departure was recently made from this practice in the Commercial Branch of the Headquarters Office, North Western Railway, Lahore, by issuing an order in the case of head clerk, the senior-most man in the whole branch should officiate even for a period of a few weeks ?

(c) Will Government please state special reasons which led to this differential treatment in the Commercial Branch ?

(d) Is it a fact that on several occasions Hindu clerks in grade II (68—4—80—5—95) were allowed to officiate as head clerks in grade IV (160—10—200) in Commercial Branch of the Headquarters Office, North Western Railway, Lahore ?

(e) Is it a fact that when in pursuance of the same a Muslim clerk in grade II recently officiated as head clerk in grade IV, he was not allowed to draw the usual officiating allowance granted to his colleagues in the similar circumstances on previous occasions ?

(f) Is it a fact that in the Refund Section of the Commercial Branch, recently a Hindu clerk, the seniormost man in the section, has been allowed to officiate as head clerk in connection with the leave vacancy of a few weeks ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

NUMBER OF MUSLIMS QUALIFIED FOR PROMOTION AS ASSISTANT CONTROLLERS, SENIOR STATION MASTERS AND TRAFFIC INSPECTORS ON THE NORTH WESTERN RAILWAY.

126. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of Muslim employees on the North Western Railway, who are qualified for promotion as Assistant Controller, Senior Station Masters, Traffic Inspectors who have not been promoted to these posts ?

(b) Is it a fact that some of these men qualified for these higher posts two years ago ?

(c) Are Government prepared to consider the question of the promotion of these qualified men to the rank for which they are qualified with a view to improving the meagre proportion of Muslims in the upper subordinate ranks ?

Mr. P. R. Rau : (a) and (b). Government have no information.

(c) Promotion is made by selection from those qualified with due regard to seniority, and communal considerations have no place in it.

APPOINTMENT OF A MUSLIM AS DIVISIONAL SUPERINTENDENT ON THE NORTH WESTERN RAILWAY.

127. **Sir Zulfiqar Ali Khan :** (a) Is it a fact that there is not a single Muslim Divisional Superintendent on the whole of the North Western Railway ?

(b) If the reply to the above is in the affirmative, are Government prepared to consider the advisability of appointing a suitable Muslim to the post ?

Mr. P. R. Rau : (a) This is the case at present.

(b) The posts of Divisional Superintendents are filled by selection from those officers who are considered best qualified, irrespective of nationality or creed.

APPOINTMENT OF MUSLIMS IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

128. **Sir Zulfiqar Ali Khan :** (a) Will Government please state if there is or has been in the past any Muslim gazetted officer foreman, chief clerk, accountant, head accountant, head draftsman, stenographer, and assistant watch and ward Inspector in the electrical branch of the North Western Railway ?

(b) If the reply to the above is in the negative, are Government prepared to consider the advisability of providing Muslim officers and other staff in order to redress the genuine grievances of the Muslim employees of this branch ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

COMMUNAL COMPOSITION OF SKILLED AND UNSKILLED LABOUR RETRENCHED FROM THE NORTH WESTERN RAILWAY ELECTRICAL BRANCH.

129. **Sir Zulfiqar Ali Khan :** Will Government be pleased to state by communities :

- (a) the number of skilled and unskilled labour retrenched (separately) since last March, 1931, from the North Western Railway Electrical Branch ;
- (b) the number of skilled and unskilled labour (separately) re-engaged from amongst those retrenched ; and
- (c) the number of skilled and unskilled labour (separately) retrenched with three or over three years service and those retained with less than one year's service ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

APPOINTMENTS BY COMMUNITIES OF CLERICAL AND DAILY-RATED STAFF IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

130. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of appointments both temporary and permanent by communities of clerical and daily-rated staff (separately under the heads

skilled and unskilled labour) made from 1st January, 1931, up to August, 1932, in the Electrical Branch, North Western Railway and the number obtained through Central Labour Exchange, North Western Railway, Moghulpura ?

(b) Is it a fact that a majority of these appointments were made direct by the officers of the Electrical Branch without the permission of the employment officer ? If so, why ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

APPOINTMENT OF MR. KUNDAN LAL KAPUR AS CHIEF CLERK IN THE ELECTRICAL BRANCH OF THE NORTH WESTERN RAILWAY.

131 **Sir Zulfiqar Ali Khan :** Is it a fact that Mr. Kundan Lal Kapur, Chief Clerk in the Electrical Branch, North Western Railway, Moghulpura, was imported from Headquarters Office, North Western Railway, Lahore, where he was only in grade II (Rs. 68—4—80—5—95) and on transfer was promoted straight to grade IV (Rs. 160—10—200) and within a period of two years or so he was raised to grade VI, that is, Rs. 285—15—330, as Chief Clerk, thus superseding many Muslim qualified clerks in the North Western Railway offices ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

RULES REGULATING THE RECRUITMENT OF MINISTERIAL STAFF IN THE CENTRAL STANDARDS OFFICE, RAILWAY BOARD.

132. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the number of assistants, clerks and stenographers employed in the Central Standards Office for Railways, Railway Board ?

(b) What reasons, if any, are attributed to the total disappearance of Muslims from this office ?

(c) How many men were recruited from outside and how many men were taken from the Railway Board Office at the time of its formation ?

(d) What rules regulate the recruitment to that office ? Are the candidates indented for from the Public Service Commission ?

Mr. P. R. Rau : (a) The Staff of Central Standards Office consists in all of 35 Assistants, Clerks, Stenographers and Draftsmen. Of these eleven are Hindus, eight Muhammadans, eight Europeans and Anglo-Indians and eight Sikhs. Excluding draftsmen the number of Assistants, Clerks and Stenographers is ten. Of these seven are Hindus, one Sikh, one Muhammadan and one Anglo-Indian.

(b) In view of the reply to part (a), the question does not arise.

(c) Five were recruited from outside the Railway Board's Office on the strength of their previous experience in Railway and other Government Drawing Offices ; one Stenographer was transferred from the

Department of Industries and Labour and one from the Railway Clearing Accounts Office ; two typists were recruited by open competition, and the rest of the staff transferred from the Railway Board's Office.

(d) No rules regulating recruitment are laid down as it is usually found possible to fill vacancies by transfer.

RECOMMENDATION OF THE RAILWAY RETRENCHMENT SUB-COMMITTEE FOR THE ABOLITION OF THE CENTRAL STANDARDS OFFICE.

133. **Sir Zulfiqar Ali Khan :** Is it a fact that the Railway Retrenchment Sub-Committee recommended the total abolition of the Central Standards Office ? What steps, if any, have been taken to give effect to these recommendations ?

Mr. P. R. Rau : The Railway Retrenchment Sub-Committee did not recommend the total abolition of the Central Standards Office. The recommendation of the Committee and the decision of the Government of India thereon will be found on page 4 of the memorandum dealing with the recommendations of the Railway Retrenchment Sub-Committee, which was circulated to the Assembly in the beginning of November, 1931.

COMMUNAL INEQUALITIES IN THE STAFF OF THE CENTRAL STANDARDS OFFICE.

134. **Sir Zulfiqar Ali Khan :** Will Government be pleased to state the stage at which the recommendations contained in Mr. Hassan's report at present are ? Are they applicable to the Central Standards Office for Railways as well ? If so, what procedure will be adopted to redress communal inequalities ?

Mr. P. R. Rau : The recommendations contained in Mr. Hassan's report are still under the consideration of the Government of India.

NATURE OF WORK DONE BY THE CENTRAL STANDARDS OFFICE.

135. **Sir Zulfiqar Ali Khan :** (a) Will Government be pleased to state the nature of work done by the Central Standards Office for Railways ?

(b) How many receipts have been dealt with in this office for the last two years ? How many specifications have been issued ? How many of them were mere copies of the Indian Stores Department specifications ? What amount, if any, accrued to Government on account of sale proceeds of these specifications and the value of drawings supplied by this office ? How much is spent annually on printing and ferroing these drawings and specifications ?

Mr. P. R. Rau : (a) The Central Standards Office for Railways deals with the preparation of Standard Drawings and designs for Permanent Way, Bridges, Signal and Interlocking Locomotives and Rolling Stock ; also standard specifications for railway materials.

(b) The number of receipts, in addition to un-official references from the office of the Railway Board and other offices, during the last two years was 9,189.

153 I. R. S. Specifications have so far been issued. None of these specifications are mere copies of the I. S. D. Specifications. 63 are, however, based on the I. S. D. Specifications and their issue is made with due acknowledgment.

I. R. S. Specifications are stocked and sold by the Central Publication Branch, Calcutta. Information regarding the amount realised up to date is being obtained and a statement will be laid on the table of the House in due course.

The booked receipts for the sale of drawings is Rs. 16,003 up to date. The booked expenditure up to date on printing specifications and printing and ferroing drawings is Rs. 23,557.

MARRIED LADY CLERKS IN THE RAILWAY BOARD AND ITS ATTACHED OFFICES.

136. **Sir Zulfiqar Ali Khan** : Will Government be pleased to state how many married lady clerks are employed in the Railway Board's office, and its attached offices ? Is there a Home Department circular regarding lady clerks not to be retained in service after they are married ? If so, why are such lady clerks retained in the Railway Board's office ?

Mr. P. R. Rau : There are no married lady clerks in the Railway Board's office.

There is one in the Central Standards Office.

There is no Home Department circular prohibiting the employment of married lady clerks.

POSTING OF MR. COLAM AS DEPUTY CHIEF CONTROLLER IN THE CENTRAL STANDARDS OFFICE.

137. **Sir Zulfiqar Ali Khan** : Will Government be pleased to state if Mr. Colam, now acting as Agent, Madras and Southern Mahratta Railway, is again being posted to the Central Standards Office for Railways as Deputy Chief Controller ?

Mr. P. R. Rau : No.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : Sir, I was dealing with clauses 2 and 13 when the House rose yesterday. Clauses 2 and 13 relate to dissuasion or an attempt at dissuasion on the part of a person to any individual from entering the police or the military service, etc. This is made an offence, and as I pointed out yesterday, this is made a non-bailable and a cognizable offence. Apparently from the Government point of view, it is a serious offence. Now, it seems to me that this provision is a singularly unfair provision to an accused person, and I endeavoured to point out yesterday that an act of dissuasion or advice could not *per se* be regarded as an objectionable act. An act is either penal or innocent according to the circumstances of each case, and an act should

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be regarded as innocent unless its penal character is established by the prosecution. That, I understand, Sir, is an accepted proposition of law. The present provision offends against this well-known principle in the sense that the moment the prosecution establishes that there has been dissuasion on the part of a person, he is *prima facie* supposed to have committed the offence, and it would then be for him to establish an exception. In the proposed provision, the burden of proving innocence has been placed on the accused person. You will be able to see my point if you compare this provision with the next provision, namely, proposed new section 164B, the opening words of which are : " whoever, with intent to prejudice any public servant, etc. ". Now, here I take it that the ingradient of offence lies in the intention, which is mentioned in the section. In the same way, in clause 2, there should have been words to the following effect :

" Whoever in bad faith intending to prejudice the Government or its administration dissuades a party from entering the police or military service will be guilty ", etc., etc.

If the provision had taken that form, it would have been in perfect consonance with the established principle of law, but in its present form it places the accused person at a considerable disadvantage who shall have to establish his innocence with an initial presumption in favour of his guilt. The only exception provided is, that the provision would not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given. There is no definition of " good faith " laid down in the Bill and I take it that the definition, laid down in section 52 of the Indian Penal Code, would govern the case and, for the information of the House, just to refresh their memory, I shall, with your leave, read the words of section 52, which are as follows :

" Nothing is said to be done or believed in good faith which is done or believed without due care and attention."

Therefore, if this is the definition of " good faith " on which we are to work for the purposes of this Bill, then it is very doubtful if the exception would be of any use to any party. In any case, our notions as to what is a " good faith " may be quite different from those of the Government.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : That section merely says what is *not* good faith. It does not define it.

Mr. B. R. Puri : If there is any better or more comprehensive or more positive definition of that, perhaps my Honourable friend would enlighten the House and myself also. But I do not find that there is any better or any more exhaustive definition of good faith laid down anywhere. So we are compelled to resort to what we have got. The uncertainty caused by leaving " good faith " undefined is obvious. Suppose a young man comes to me, and I, in perfect good faith,—knowing his temperament and his family history—were to dissuade him from joining the police service, I shall nonetheless be guilty of having committed this offence if the definition of good faith, as understood by the prosecution, is different from mine.

Sir, whatever may be the merits of the police, surely it is not seriously claimed that it is an ideal service likely to improve the morals of those who enter it. After all, there is plenty of corruption in that department, great deal more than there is in other departments. And suppose I were

to dissuade a person from entering the police service on this very ground, with a perfectly honest intention, would I still be guilty ? As long as you do not make any provision to meet such like cases, you are placing upon the Statute-book a most pernicious law which is liable to be used and misused to the prejudice of the people.

In this connection, Sir, it is well to remember that, even during the days of the Great War, such a law did not exist. When the conditions were such that every available man was wanted on the front, when a dissuasion of that kind would have proved extremely mischievous and harmful to the Government, even in those trying times such a provision was not conceived of. Are the present conditions worse than those during the war ? What has happened now which has necessitated the introduction of this law which, even in time of the great stress, was not thought of ? Are we to believe that the Government are actually at war—war of a most desperate character—with the people ? Remember what the Secretary of State says—the movement is crushed, the Congress is gone to pieces and the clouds have disappeared. How can the Government reconcile such a position ? I would, therefore, strongly urge that a law of this kind, which is liable to a considerable amount of abuse, should not be introduced, more so, when the conditions prevailing do not demand it. Incidentally, I would ask you, Sir, to pursue this question a little further and see what provision the Bill makes for those cases where a person, without any dissuasion, of his own will chooses to resign and relinquish the police or military service ? Sir, if it is a penal act on the part of a person to prevent another from entering the Government service, it should *a fortiori* be equally penal for a person who is already in the service of the Government to relinquish that service. I would ask you, Sir, to apply your mind for a moment and see how you are going to meet the case of a person who has made up his mind to resign the service. Would that be *prima facie* penal ? If, then, the attempt shall also be penal, so that the moment a Government official sends in his resignation, it would be an attempt on his part to relinquish the Government service. What is the principle underlying this law ? The object apparently is that your services may not be hampered. The services can be hampered by preventing people from joining them and the services can equally be hampered, perhaps far more seriously, by the people relinquishing the service. Therefore, the principle being the same, if one is penal, there is no earthly reason why the other should not equally be penal. In this way, the moment a Government servant puts in his resignation, he has attempted to dissuade himself from relinquishing the service. That would lead to absurdities and I would ask the Government, Sir, to see where this law will lead us to.

Now, Sir, with these remarks I will pass on to the next clause. That is clause 3 of the Bill. It introduces a new provision, namely, section 164A. It says :

“Whoever induces or attempts to induce any public servant to disregard or fail in his duty as such servant shall be....”

Then there is a very important explanation added to it :

“For the purposes of this section, a servant of a local authority, or of a railway administration, and a person belonging to any class of persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this section shall be deemed to be a public servant.”

The offence consists in inducing a person who is already a public servant. The last section dealt with the case of a prospective public servant and this

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one deals with a person who is already a public servant. Now, Sir, what is a public servant? All sorts of menials, all sorts of servants of local authorities and of railway administration and persons belonging to any class can be declared by the Local Government to be public servants. As regards the powers of a Local Government, I shall have to say something when I come to deal with another very important question, but, for the present, I will confine myself to the main provision. This provision, as you will see, is open to the same objection as the last provision with regard to the burden of proof which has been placed again on the accused. You will also see that this section has been wedged in, in Chapter IX of the Indian Penal Code. Chapter IX deals with various offences which are all bailable. This is the only offence, therefore, which would be non-bailable in that Chapter and a cognizable one. But what I would particularly ask you to note is the utter lack of proportion in the matter of sentence when we compare it with the existing provisions of the Indian Penal Code. Take, for instance, section 186 of the Indian Penal Code. Section 186 of the Indian Penal Code says :

“Whoever voluntarily obstructs any public servant in the discharge of his duty, the offence shall be punishable with imprisonment of either description for a term which may extend to”

—please note the sentence,—

“three months or with fine which may extend to Rs. 500 or with both.”

Sir, in the proposed provision, the mere inducement of a public servant to disregard his duty is punishable with a sentence of one year, for a mere inducement, for a gentle inducement unaccompanied by any act of a more serious kind, the sentence proposed is one year's imprisonment of either description. For the actual obstruction of a public servant in the discharge of his duties, the law, as it exists at present, the sentence provided is only three months imprisonment or with fine. I would ask the Government to compare these two provisions and see whether there is any sense to provide a heavier sentence for a comparatively much lighter offence. After all, obstruction is a far more serious act than mere inducement. I would have expected that the Government would put this section 164A side by side with section 186.

Mr. H. L. Nichols (Burma . Nominated Official) : Why should not the Honourable Member tell all this to the Select Committee when the time comes? Are these not Select Committee points?

Mr. B. R. Puri : It would perhaps be for the benefit of the Select Committee, if I tell all these things now. I may or may not be there. Of course, I will endeavour to attend the meetings of the Select Committee. I am a member of the Select Committee. But anything may happen to me. I might die in the meantime or I might be hauled up under any one of these Ordinances to-morrow.

Mr. N. M. Joshi (Nominated : Non-Official) : The object of the Honourable Member is to defeat the motion.

Mr. B. R. Puri : Now, Sir, I should have thought that it would certainly have been more fair if this particular clause had been tacked on to section 186 or placed side by side with the section with which it

bears an apparent similarity. On the other hand, it has been put amongst a series of other provisions with which it has got absolutely no resemblance whatsoever. But, on further reflection, I discovered that probably the reason which led the Government to act in this manner was that if this provision had been placed side by side with section 186, there would be a tell-tale contrast between the two, and that is exactly what the Government wished to avoid. If put side by side, it would appear—obstruction, three months : gentle inducement, one year : and, on the face of it, it would be absurd. But the matter does not end there, there is yet another provision to which I shall draw the attention of the House, and that is, section 189. Section 189 says :

“ Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested for the purpose of inducing that public servant to do any act or to forbear.....shall be imprisoned to the extent of two years or with fine or with both.”

Kindly note what the procedure is. It is not a cognisable offence, and it is a bailable offence. Now, compare this provision for a moment with the proposed section 164A of the present Bill. You will find there is a world of difference between the two. That inducement in section 189 has assumed the form of a positive threat of violence and even then the Legislature has provided that the offence shall be non-cognisable and shall be bailable. With what fairness and reasonableness, therefore, can it be urged that for a far more serious form of the same offence, you allow an accused person bail and you make the offence non-cognisable, and for a much milder offence you are introducing a new element, namely, you are permitting the police to arrest any man without any warrant—it being made a cognisable offence, and no bail. I would, therefore, ask the Government to seriously consider this aspect and see for themselves whether, after comparing these provisions *inter se*, the charge of utter lack of proportion is not conclusively established against them.

And, now, I would ask the Government to compare this provision with the other provisions of Chapter IX, namely, the sections which deal with the giving or taking of bribes. The reason why I bring in those provisions is that this section 164A has been wedged in, in Chapter IX which deals with a particular form of corruption. After all, the giving of a bribe is also a form of inducement. In one case it is a simple oral inducement like what we have in the Bill and, in the other, the inducement takes the form of a bribe—but the object is the same, namely, to induce a public servant to do something which he would, otherwise, not be willing to do. Between the two the offering of a bribe is a more serious and a more heinous and more aggravated form of inducing a public servant to commit a dereliction of his duty. That being so, has any regard been paid to this distinction in the matter of punishments ? All offences relating to the giving of bribes are non-cognisable and bailable offences, but, in the proposed Bill, the Government are recommending that mere inducement should be made a cognisable and a non-bailable offence.

I would now, with your permission, deal with a very important clause of the Bill, namely, clause 4. Clause 4 introduces into the Bill section 164B. It is a clause which requires to be read and re-read and, again, re-

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read, because it is a most interesting and a most amusing provision. And, in order to refresh your memory, I will just read it :

“Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline,”

—and now comes the most amusing part of it—

“refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Explanation.—For the purposes of this section, ‘public servant’ has the same meaning as in section 164A.”

That is to say, not only a public servant, under the Government, but a public servant of a local authority or a railway administration or anybody who has been declared as a public servant by the Local Government, shall be a public servant for the purposes of this section. Sir, I must congratulate the Government for the drafting of this provision. It has spread its net as wide as possible and one can fully expect plenty of fishes to fall in. The clause is so admirably drawn up that I think a public servant hereafter would be an utter fool if he pays for anything. All his needs are amply provided in this section. The language is such that it lends itself to terrible abuse. Only the other day we had to alter a very important provision of the Criminal Procedure Code, namely, section 526, on the ground that the language of the section was such that it was liable to be abused. But what are the Government doing here—they are now introducing in this provision a most pernicious law which could be recklessly abused to an extent which would make the situation absolutely intolerable for the subjects. This provision, Sir, places the subject in this official-ridden country in a most servile position. If this becomes law, I really cannot conceive what would be the safe place for the poor innocent subjects to go to ? (*An Honourable Member* : “To Jail.”) Perhaps the jail, as an Honourable friend suggests, in order to escape from the tyranny of the public servants. That reminds me of a little story that I once read of an Irishman who was about to be tried for a serious offence. The Court was convened, the prisoner was put into the dock and he was asked whether he pleaded guilty or not. “Not guilty, my Lord”, he said. The plea was recorded. Presently the first prosecution witness was called in and, as soon as he was put into the witness-box, the prisoner turned towards him and who should he see but a very dear old friend of his. He was shocked to see him and so he addressed the Judge : “My Lord, may I know if this gentleman is going to depose against me ?”. His Lordship turned round and said : “Well, I can’t say, but I expect he is”. “Well, my Lord, in that case may I change my mind ? I will plead guilty, not because I have done anything, for I am as innocent as a babe, but merely to save my friend’s soul.” The prisoner, with a touch of humour, chose to plead guilty to save his friend from the ignominy of making a false statement. Sir, if this provision becomes law, your ‘services’ will be corrupted and you would be placing an uncontrollable temptation before the

public servants. It may perhaps not tempt such highly placed public servants as I see in front of me, but we cannot forget the lower ranks of the services who are liable to misuse all these provisions for their own personal ends. And, when we consider their case, I would ask you seriously to put yourself this question whether these provisions are not liable to terrible abuse. And, if they are of that character, you have no right to place them on the Statute-book. Innocent citizens, in order to escape from the public servants' tyranny, shall have to shut themselves in.

An Honourable Member : Shutting themselves might bring them within the clutches of the law.

Mr. B. R. Puri : It might ; but then migration might also be treated as denying the customary services. Sir, my only request is that if this is going to be the law which is to control the destinies of the people of this country, and that for an unlimited period,....

Rao Bahadur B. V. Sri Hari Rao Naydu (Madras : Nominated Official) : It is only to be enforced by a Notification. Sub-clause (2) of clause 1 says that sections 4 and 7 will only come into force when the Local Government enforces them by Notification in the Gazette.

Mr. B. R. Puri : Thank you for this valuable information which I could not get otherwise. Now, Sir, if that is going to be the law which is to govern the destinies of the people of this country, my only request to the Government would be, kindly do declare me a "public servant". I am not quite sure if M. L. A.s are public servants ; they may or may not be ; perhaps, like lawyers, they are officers of the Court only when it is a question of some obligation, but when there is a question of some privilege, they are nobodies. If they are not, may I request the Government to kindly declare them as public servants and then perhaps it may not be necessary to move the Resolution for curtailing our Travelling Allowance—for we will forego the same with pleasure. (Laughter.)

An Honourable Member : We do not want to be public servants.

Mr. B. R. Puri : As I have pointed out, this provision is very exhaustive, but if suggestions are invited, I would like to add the following words to the section :

"Whoever stares at a public servant or a servant of such public servant, whoever talks unkindly to a public servant, whoever cracks a joke with him, whoever fails to invite him to dinner when others are invited (Laughter), shall be guilty of having committed this offence and shall be liable to imprisonment of either description. (Laughter.)"

As I pointed out, it would be placing a most terrible handle in the hands of unscrupulous public servants of the lower orders...

Mr. N. M. Joshi : Why lower ?

Mr. B. R. Puri : Do you mean to include all classes of public servants ? Might be the middle class, you mean ?

Mr. N. M. Joshi : Why do you suppose that the higher officers are free from this ?

An Honourable Member : Quite right.

Mr. B. R. Puri : If such a terrible weapon is placed in the hands of the public servants, it would be a wonder if they did not take full advantage of it and in any case, partial advantage. The language of the section is so wild that I can well imagine a private gentleman being turned out of a shaving saloon only half shaved, because a public servant had just then walked in and demands that he should be shaved first. This is the law which you are going to enact, and no Government, which have the least claims to civilisation, can ever be a party to laying down such a trash...

Mr. B. Das (Orissa Division : Non-Muhammadan) : Who told you this Government is civilised ? They are not.

Mr. B. R. Puri : This brings me to clause 7. This clause 7 relates to the imposition of fine upon parents for the sins committed by their sons. It goes further and says, that in the event of the parent failing to pay the fine, he can be sent to jail also.

An Honourable Member : That is clause 8.

Mr. B. R. Puri : Oh, yes : I forgot. Clause 7 beats everything that has gone before it. It says :

“ 507A. Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,—

- (a) obstructs or uses violence to or intimidates such person or any one in whom such person is interested, or loiters at or near a house where such person or any one in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or
- (b) loiters at or near the place where such person carries on business, in such a way or with intent that any person may thereby be deterred from entering or approaching or dealing at such place, or does any other act at or near such place which may have a like effect,

shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.”

This is what is called the molestation of public servants....

An Honourable Member : Of any person, not merely public servants.

Mr. B. R. Puri : One has only to read the section to realise the horrors of it. I think it is one of those provisions regarding which hardly any comment is needed. Under this law, before I pass through a street, I shall have to make inquiries whether a public servant has not already gone ahead lest my shadow falls on him.

An Honourable Member : Not public servant ; any person.

Mr. B. R. Puri : Any private person, yes ; that is still worse. It would not bring about a clash between the public servants and the people, but between the people *inter se*. According to this, even if a shadow of a person falls on another, he is liable, because it amounts to “ pursuing ” and “ following ”. If a person goes about merely for a stroll, he can be hauled up for committing an offence of this kind. Without any further criticism of a law like this, I would ask the Government seriously to reflect whether,

with such laws and with such magistracy as we have got, you are not seriously undermining the society and social order of things. I will make myself clear. If the laws are bad, the mischief could still be mitigated if the magistracy is above criticism. But if the laws are of the kind of which we have got some samples here and the magistracy is also not up to the mark, then the position of the subject really becomes intolerable. If I do not give a blow for a blow, and, if a murder is not committed for a murder, it is because people still have some confidence left in their mind about the impartiality of the Courts of justice. I know that if my next door friend were to give me a blow, my remedy is that I could go before a Court of law and get redress, but if I were to know that I cannot get justice from the Court, if I cannot depend upon the impartiality of the Court of justice, then the moment I receive a blow I would give him two in return.....

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhamadan) : Only if you are stronger, you can give him two.

Mr. B. R. Puri : The situation thus created would be one of complete disorder in society, and therefore, it is of paramount importance that you should create and promote confidence of the people in your administration of justice and that in two ways : one is, that your laws should be perfectly reasonable, they should not be unjust, they should not be oppressive, they should not be degrading and humiliating to the people ; and they should not be liable to abuse ; the second is, that the magistracy should be above suspicion. Now, Sir, I have no desire to malign a class of public servants, but I should like to meet an honest man who could put his hand on his breast and say that in political cases the magistrates do justice. ("Hear, hear" from the Nationalist Benches.) I make bold and state that not only the common run of people, but people of the highest classes, entertain this belief.....

The Honourable Mr. H. G. Haig (Home Member) : On a point of order, Sir. Is the Honourable Member in order in directing a perfectly unjustifiable attack on the magistracy in connection with this Bill ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member is criticizing the agency which will have to administer the Act, and, in doing so, is entirely within the privilege which he enjoys. (Applause from the Nationalist Benches.)

Mr. Gaya Prasad Singh : Why don't you separate the judicial from executive functions ?

Mr. B. R. Puri : If I say anything against a class of public servants, it is with a great deal of hesitation that I do so. It is not that I seek any pleasure in running down a class some of whom, I know, are perfectly honourable, most of them are perfectly honourable so far as the ordinary cases between A and B are concerned ; but what I do say is that so far as political cases are concerned, there is a well founded belief in the minds of the people of this country that no impartial justice can be expected from your Courts of justice.

Mr. F. E. James (Madras : Europeans) : Sir, on a point of order. May I draw your attention to Standing Order 29 which says that a Member, while speaking, shall not reflect upon the conduct of His Majesty the

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King or the Governor General or any Governor, or any Court of law, in the exercise of its judicial functions.

Mr. B. Das : Magistrates are not judicial officers.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member does not reflect on any Court of law, but makes general observations on the agency which is going to be entrusted with the duty of administering this law if passed. (Applause from the Nationalist Benches.)

Mr. B. R. Puri : Now, Sir, lest it should be considered that it was a gratuitous attack made without any justification, without any data, without any foundation in my possession, I would straightaway take the House into confidence and say that not only is it the belief with the ordinary common run of people, but it is the belief in higher circles as well, and I will tell the House with all the sense of responsibility that attaches to my position what I know from personal knowledge. I had the privilege to represent.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair ruled him in order but wishes to ask the Honourable Member whether it is desirable to pursue the point any further.

Mr. B. R. Puri : If the Chair will only permit me to mention just one little incident after which I would leave it. I was referring to that well-known trial between Sir Michael O'Dwyer and Sir Sankaran Nair. I had the privilege to represent Sir Sankaran Nair, and we had to examine about 100 or 150 witnesses who were produced on behalf of Sir Sankaran Nair as a defendant in that case. While the case was proceeding, not once but on many occasions that gentleman had to remark—"You carry on the case ; I am not fighting for the verdict ; I know it is a political case, and, in political cases, verdict is foregone conclusion—nor does it count ".

That being the case, it is clear that with such laws as you are now proposing to lay down and with the beliefs and the convictions which the people have with regard to the magistracy, you will be creating a very difficult and a very unfortunate situation in the country.

This brings me, Sir, to the next clause, 383A. This is a provision which makes parents liable for the sins of their children. All I need say with regard to this provision is, that it violates the universally recognised principle that every man is responsible for his own act. The other day, my friend, Mr. Gwynne, inadvertently gave expression to the same principle, and, on that principle, he wanted to justify a course which was followed by Government. I pointed out to him then that in the course of the next two or three days I would be able to remind him—unfortunately he is not in his seat now. But, Sir, there is no gainsaying the fact that this is a very strange law and constitutes a marked departure from the well-known principle of law which lays down that nobody can be held responsible for the acts of others. My son may be moulded on different lines, he may have his own views.....

Mian Muhammad Shah Nawaz (West Central Punjab : Muhammadan) : He has different views. (Laughter.)

Mr. B. R. Puri : ...different from the views that I possess, and there is no justification why the parent, who may be sitting hundreds of miles away, should be penalised and sent to jail. The offence of the father is not going to be determined by what the father has done, but by the nature of the offence which the son has committed. Sir, under the existing law, nobody can be punished for anything done by the principal offender, unless it is proved that he is guilty of having committed an abetment of that offence. But, before an abettor can be punished, it is always for the prosecution to establish that he has committed an act of abetment. Here, you have thrown all your law of abetment to the winds. You have straightaway assumed that a person is guilty of having abetted an offence, because he happens to be the father of the offender.

Mr. K. G. Neogy (Dacca Division : Non-Muhammadan Rural) : This is propaganda in favour of birth control !

Mr. B. R. Puri : It is, as a matter of fact, in favour of birth control ; it really comes to that. The only way in which the person can save himself is not to marry, because if he marries and gets children, he might find himself in jail. So, the best thing would be not to marry at all.

The Honourable Mr. H. G. Haig : Cannot the Honourable Member control his children ?

Mr. B. R. Puri : Now, Sir, there is a proviso added :

“ Provided that no such order shall be made unless the parent or guardian has had an opportunity to appear before the Court and be heard.”

He is given the privilege of being heard, but heard on what point and under what conditions he has to be exempted from that liability, nothing is said.

Sir, the next provision is clause 15, and this brings me to a very important question which I wish to place before the House. I would first of all ask you to look at page 5 of this Bill, clause 15. It says :

“ Section 16 of the Indian Criminal Law Amendment Act, 1908, shall be re-numbered as sub-section (1) of section 16, and to that section as so re-numbered the following sub-section shall be added, namely :

“(2) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India.”

Section 16 of the Criminal Law Amendment Act says :

“ If the Governor General in Council is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, the Governor General in Council may, by notification in the official Gazette, declare such association to be unlawful.”

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I would also ask you to look at section 15 of the Act which defines an unlawful association. It says :

“(a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(b) which has been declared to be unlawful by the Governor General in Council under the powers hereby conferred.”

Now, the point that I wish the Government to note is, that there is a fundamental defect in this provision, namely, that it is absolutely *ultra vires*, that this Legislature is not authorised to permit the Governor General in Council to do anything of the kind. Let me make my position clear. The Central Legislature has been given certain powers of legislation for this country. This power is derived from an Act of Parliament, called the Government of India Act. It is under the Government of India Act that this House has got the power to legislate for this country. In order to see what are the powers of this Legislature, the only source to which we have got to refer is the Government of India Act. The powers which this House can exercise are prescribed there. They cannot be added to, or extended, or restricted. For all practical purposes, that is the only repository to which we have got to refer, namely, the Government of India Act. Now, please note that, under the Government of India Act, the Legislative Assembly is the only body that can legislate ; there is no other contemporary body, there is no other rival agency, which has got the right and the privilege to legislate, barring perhaps the emergency powers which have been conferred upon the Governor General, namely, of promulgating Ordinances or issuing Regulations—those are defined in sections 71 and 72 of the Government of India Act. Thus, barring those two particular sections, namely, sections 71 and 72, one dealing with Regulations and the other with Ordinances, there is no other body or agency which has got the right to legislate in this country. That being so, this Legislature cannot abdicate its functions or transfer its functions to anybody or any agency to supplement its own function which is exclusively conferred upon it. Sir, to illustrate what I mean, if this Legislature were to lay down that whoever is a member of an unlawful association shall be guilty of such and such an offence and that, what is an unlawful association shall be declared by Mr. Kabeer-ud-Din Ahmed and published in the *Statesman* newspaper, no doubt you will agree that that would be an absurd law. Precisely so. Because, Mr. Kabeer-ud-Din Ahmed's position is not the Legislature and the Legislature has got no business to say that they would take him in partnership in this matter. Either the Legislature should legislate itself or not legislate, but they have got no right to invite somebody else, no matter how highly placed he may be, to come and help in the function of legislation, and yet this is precisely what you have done here. You say it is for the Governor General in Council to lay down what an unlawful association is. I submit that the Governor General in Council has got no right whatsoever to do so. It is for the Legislature to lay down the conditions which would make an association an unlawful association. It is not for a private individual or for a body of individuals, no matter who they may be, to usurp the function of legislating. Therefore, to the extent that this provision transfers its powers to the Governor General in Council, this provision is positively bad and *ultra vires*. I

would invite your attention to section 84 of the Government of India Act, which says :

“ A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.”

All that you need now consider is section 65 of the same Act, and you will find that it is the Central Legislature that has got power to make laws. Therefore, my submission is that this power, which is conferred upon the Governor General in Council, is not conferrable under the Government of India Act and, if that is done, it would be repugnant to that extent, and it would be wholly illegal and *ultra vires*. I would ask you now to turn for a moment to section 15 of the Criminal Law Amendment Act. You will see here that in two ways an association can be declared to be unlawful. One is, if the magistrate declares it for the purposes of the particular case over which, at the moment, he is exercising jurisdiction. Certain conditions are laid down for his guidance. Evidence is led by the prosecution in support of their case. The witnesses are examined and cross-examined and, after the whole evidence is sifted, the magistrate comes to one or other conclusion. If the magistrate finds that the association is unlawful, the finding could be challenged in a Court of appeal and, although a conviction may have ensued in the first instance, that conviction is liable to be set aside if you can successfully satisfy the appellate Court that what the magistrate has found to be an unlawful association on the evidence led is not to be an unlawful association. Either the evidence is not trustworthy, or the evidence is inadequate, or it is open to some other objection. Therefore, it is always open to an accused person to challenge that finding. But there is another agency which has been given the legislative power to declare what an unlawful association is and that is the Governor General in Council. The magistrate can only deal with this question, when the case is before him, but the Governor General in Council in advance can declare that any particular combination of people constitutes, according to his view, an unlawful association. Therefore, this is a clear case where another agency has been called in to legislate, a power exclusively possessed by the Legislatures. In this sense, I would submit that the existing provision of the Criminal Law Amendment Act is equally bad and *ultra vires* and, for the similar reason, your present Bill which contains the same provision with regard to the power of the Governor General in Council to declare an association unlawful is bad and *ultra vires*.

There is one more clause to which I will have to refer, in order to show you to what extent this Bill goes in this direction, this is clause 12, which says :

“ The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section 186, etc.....notwithstanding anything contained in the Code of Criminal Procedure be cognizable and non-bailable.”

Now, here is a most flagrant case where you are giving to an executive body, namely, the Local Government, the power to repeal your legislative Act. The Act of the Legislature, namely, the Criminal Procedure Code, lays down that certain classes of offences shall be non-cognisable and shall be bailable. You are giving a power to an executive body to declare in their own Gazette in spite of what your Criminal Procedure Code says. We declare that certain offences shall be cognisable and non-bailable—although very opposite and contrary of what you have done and, I submit,

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the Criminal Procedure Code lays down to the contrary and this is a flagrant overthrow of a legislative Act. No executive Government, no outside agency, no individual, and nobody in Council or out of Council, have the power given to them under the Government of India Act to legislate either singly, individually or in partnership with us. It is our right, our exclusive right, and if we delegate that right, we are committing really a dereliction of our own duty and we are going beyond the powers which have been conferred upon us. We have got no right to abdicate these powers and the Local Governments or the Governor General in Council have got no right to assume these powers. Therefore, to this extent this law is bad, the previous law is equally bad, and the present law which repeats that provision is no better. (Hear, hear.) Now, Sir, looking at this clause, it would appear that it furnishes an illustration of "legislation made easy". There is the Governor General in Council who can declare what an unlawful association is; there is the Local Government which can declare what are the abode and premises of such unlawful association; there is the District Magistrate who can take possession of those premises; and there are his subordinates who can go into the premises and help themselves to anything they like which they find there. (Hear, hear.) If it is a milch cow, they can drink the milk. If it is a motor car, they can have a free ride. (Laughter.) If there is any money found there, they can forfeit it! Sir, is this a "legislative", or a purely "executive" Act? I would ask you, Sir, and the Government to seriously consider whether this is not a sugar-coated pill, full of executive bitterness, only with a little superficial coating of sugar, a mere tinge and colouring of legislative character being imparted to the Bill. I submit, Sir, that a law of this kind could not be tolerated. And I would ask the Government—to sum up—that they are now trying to introduce laws which, I venture to submit, can hardly be called civilised laws. They are most uncalled for, most inappropriate, most liable to abuse, and most mischievous laws, because they place such a great temptation in the path of the executive officers and their subordinates; and these laws, I venture to submit, are conceived solely on account of the great distrust which the Government seem to cherish against the subjects of this country. The Government are so distrustful of the people! If that is their feeling, then they must expect reciprocity of such feelings from the people towards them. (Hear, hear.) It is only when you repose confidence in the people that you can expect reciprocity yourself. (Hear, hear.) Sir, a Government, which look on every combination of men as a conspiracy and every patriot as a rebel, cannot expect the people to look upon the Government and their agents as people who are here for the benefit of the people. (Hear, hear.) Sir, I think it would be doing a good turn not only to the people of this country, but, I think, Government in its own interest would be much better advised if they were not to resort to such desperate measures, and measures which would engender and promote desperation on the part of the people. (Hear, hear.) And I have here one word to say to my Honourable friends, the nominated Members. We were reminded yesterday by my Honourable friend, Mr. Anklesaria, that we were people who hunted with the hound and ran with the hare. Sir, those who live in glass houses should not throw stones at others. (Hear, hear.) (Mr. S. C. Mitra : "He is not here.") There he is actually in front of

me,—he is sitting there. (*Mr. Gaya Prasad Singh* : “ Quite indistinguishable from the Official Members ! ”) I have got no desire to say anything unpalatable, but I trust that the nominated Members will be doing their duty much more honourably and much more honestly if they gave a candid, a straightforward and a bold opinion to the Government, that they are on the wrong track in enacting such laws. Sir, the other day I happened to have the privilege of sitting at the same table with a young English gentleman who, it appeared, had recently come out to this country and had been attending the Assembly and watching the deliberations of this Honourable House, and he asked me what particular section of the House did I belong to. I said, I belonged to the Opposition. He said, “ Why, Opposition ? ” I said, “ Why not ? ” Suddenly changing the topic he said : “ Do tell me who are the people who are sitting on the Back Benches behind the Treasury Benches ”. I said “ those are ”—I mean no offence to my Honourable friends—“ voting machines imported from the different parts of the country. (Laughter, and “ Hear, hear.”) Some of them are silent machines, like those portable silent Remingtons ; some of them have merely arrived here, like the gentleman who arrived in a big hotel and put down his name in the visitors book, and who was asked by the clerk in charge : ‘ Well Sir, do you want a room ? ’ ‘ No, I do not want a room ’, he said. Then he was asked ‘ do you want dinner ? ’ ‘ No, I do not want a dinner either, I merely want to arrive—it is a long time since I have arrived at a hotel, I have seen very important people arriving here, so I thought I will also arrive here ’.” (Laughter.) Sir, some of my Honourable friends here have merely “ arrived ” ; they do not give us the benefit of their views, but, at the same time, when their services are required, they give their votes. (Laughter.) Sir, may I beg of them and appeal to them and say that this is an occasion when they should be more serious in the discharge of their duties ; that they should support Government only if they honestly and conscientiously believe that the Government are in the right, but that if their conscience dictates otherwise, they should be bold enough to tell Government that they are on the wrong track. Sir, with these words, I oppose the motion. (Loud Applause.)

Mian Muhammad Shah Nawaz : Sir, the object of this Bill is to end the civil disobedience movement. The authors of this movement regard it as a perfectly legitimate form of political agitation against the present system of Government, to which resort can be had under pressing necessity. The Government, on the other hand, regard it as dangerously subversive. In point of fact, it is a deliberate attempt to coerce the authority by mass action. Mass action is another name of force ; and when its avowed object is to paralyse the administration, a Government must either resist or abdicate. Honourable Members are aware that the civil disobedience movement was inaugurated on the 6th April, 1930, when Gandhiji went to Dandi beach and broke the salt laws by manufacturing salt. From 7th April onwards, undoubtedly there were serious disorders and disturbances throughout the length and breadth of this vast country and no province was immune from unrest. The Government attribute all these disorders and disturbances to the general excitement caused by the civil disobedience movement but, in point of fact, there are other factors which also have caused unrest. There is the unprecedented class conflict in this country. There is the question of unemployment. The constitutional issue is still hanging in the balance. There is communalism and possibly communism. Agricul-

[Mian Muhammad Shah Nawaz.]

tural distress is very acute and widespread. All these factors have contributed to the general unrest in this country. Sir, on the 11th April, 1930, there were serious riots in Bombay and Calcutta ; on the 15th April, another riot in Calcutta ; on the 16th April, there was another serious riot in Karachi ; on the 18th April, a very serious attack was made by the terrorists on the Armoury at Chittagong ; on the 23rd April, there was a very serious disturbance in Peshawar and, then, on the 8th May, there was a most serious riot at Sholapur and the Government were compelled to proclaim martial law there. These are the hard facts of the situation, which we cannot ignore. But the Government cannot ask us to pass this law which will really create a desert in the name of peace. Sir, from the 19th April till the 7th of July, Lord Irwin was compelled to promulgate several Ordinances. He was forced to arrest the leaders of the Congress. On the 5th March, 1931, there was an agreement between the leaders of the Congress, headed by Mr. Gandhi, and Lord Irwin's Government. The terms of this agreement are embodied in a Notification which was published in the Gazette of India. By its terms, the civil disobedience movement was called off and picketing stopped. In November last, Gandhiji went to England to confer with his colleagues with a view to arrive at the greatest possible measure of agreement so as to make it the basis of the new constitution. Unfortunately, he would not budge an inch from his position. The Conference also broke down on the communal issue. Meanwhile, Gandhiji's followers thought that the terms of the agreement of 5th March, 1931, were broken by the Government. The Government, on the other hand, blamed the leaders of the Congress and thought that the terms of the agreement were violated by them. The result was that the civil disobedience movement was revived with all its vigour. His Excellency Lord Willingdon then promulgated six Ordinances which expired in June last. He again promulgated these Ordinances, which expire towards the end of December. My learned friend, Mr. Puri, has raised a point that the Governor General had no jurisdiction to promulgate the Ordinances for the second time. The point has not been decided, but it is quite obvious that he had the power to do so. If the Governor General is not prohibited by an express enactment of law not to promulgate the Ordinance for the second time, there is no reason why he should not have the power to promulgate them again after the expiry of six months. The point is obvious. Indeed, if the point had been raised, it should have been raised by Mr. Puri who has been defending many cases under the Ordinances.

But, Sir, before I come to the specific provisions of this drastic Bill, I desire to point out the causes which have led to the civil disobedience movement. We must diagnose the disease first and then administer healing remedies to it. I will, therefore, place these causes before the House.

The first cause is the constitutional issue which has not yet been settled. The civil disobedience movement, as Honourable Members know, was launched against the present system of Government ; and, if the British Parliament is prepared, as I hope they are prepared, to give us autonomy in the provinces and responsibility at the centre with the necessary safeguards for the period of transition, I think the civil disobedience movement should disappear to a great extent. Honourable Members are aware of the historic declaration which the Prime Minister was pleased

to make on the 9th January, 1931, by which the British Parliament and the British Government are now pledged to give responsibility to the Indian Legislatures, both at the centre and in the provinces, subject to the necessary safeguards for the period of transition and also subject to the necessary guarantees as required by the minority communities to protect their own rights and liberties. But, Sir, in spite of this declaration, there has been a lurking suspicion in the minds of a section of people of this country and, especially in the minds of the Congressmen that Government are not prepared to give responsibility at the centre simultaneously with provincial autonomy. That idea may be wrong, but it is there. Mr. President, the plan of the Secretary of State gave rise to grave misgivings. The British Cabinet has its own difficulties ; its main prop is a body of Conservative members among whom men of the type of Mr. Winston Churchill can always have a good hearing. No man has done greater harm to the cause of the British Empire and India than Mr. Winston Churchill. Last year, this gentleman raised an issue on the Indian constitution, but carried with him into the division lobby a miserable rump of forty Members only.

Sir, I wish the Congress were to participate in the deliberations of the revised procedure of the Round Table Conference. India warmly welcomes the statement of His Excellency the Viceroy, which was made the other day, to the effect that the Round Table Conference methods are now restored in the future reforms procedure. For this happy ending of fears, doubts and misunderstanding, His Excellency the Viceroy and his Government are entitled to a warm thanks by the people of this country. But still there are many things to be done to complete the picture. The lurking suspicion still remains that responsibility at the centre may be postponed.

An Honourable Member : What about civil disobedience movement which has not yet vanished ?

Mian Muhammad Shah Nawaz : The civil disobedience movement will disappear considerably if the British Government and the British Parliament will give a constitution satisfactory to the people of India and fulfil their aspirations.

Sir Abdullah-al-Mamun Suhrawardy (Burdwan and Presidency Divisions : Muhammadan Rural) : Terrorism has not disappeared.

Mian Muhammad Shah Nawaz : Terrorism has not disappeared from the world. In India, at present, it is confined to the province from which my Honourable friend comes. It is for him to devise ways and means and methods to eradicate this evil of terrorism. The Bengal Legislative Council has already passed a law which, I have no doubt, will, in time to come, eradicate this evil. But terrorism will persist in Bengal if it receives, to some extent, support from its people. My Honourable friend has to blame the people of his own province.

Sir Abdullah-al-Mamun Suhrawardy : What about the gentlemen to the right of the Honourable Member whose lead he follows ?

Mian Muhammad Shah Nawaz : He belongs to your province.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Will the Honourable Member please go on with his speech ?

Mian Muhammad Shah Nawaz : I was saying, Sir, that we would like the Congress to participate in the revised procedure. It is a great pity that the civil disobedience movement was revived not on a constitutional issue, but on a side issue. In grappling with the shadow, they missed the substance. Sir, Ordinances and repressive laws are fleeting evanescent things as compared with the solid fact of securing power which can mend them or end them. If the new constitution is not satisfactory, then woe unto this country. Then, I am afraid, the present Bill, even if passed into law, will not help the Government. But if the constitution is satisfactory to the majority of the people of this country, to the moderate element and to the Muslims and other communities, excluding the Congress, then I am firmly convinced that the Government are entitled to maintain law and order effectively until the new constitution can safely function. (Applause.) Sir, the new constitution cannot be inaugurated with turmoil prevailing in the land. I do hope that men, devoted to the single ideal, men, determined to remove all obstacles from the path of further constitutional reforms, will go to England and try to achieve a lasting settlement between Great Britain and India. The constitutional issue is one of the causes of discontent and unrest in this country which, I do hope, will soon disappear. Meanwhile we must press on with our high purpose in faith which moves mountains.

The next cause of the civil disobedience movement is unemployment. The devil, it is said, readily finds work for idle hands to do. Now, in the increase of crime and unrest throughout this country and, indeed, all over the world, we may find one of the sinister effects of unemployment. Men and even women are driven to break the law by sheer necessity of doing something, if not by more powerful urges. Our young men are suffering from the want of occupation in these difficult times. This is partly due to our defective educational system which turns out hundreds of our young men from schools and colleges unequipped for a calling and ready to fall into the clutches of scheming men who hope to harness their idealism and energy to the chariot of their criminal ends. If young men are given more opportunities for employment, if industries are developed in the country, if agricultural distress is removed, I hope it will soon disappear—I have no doubt that crimes will decrease and the civil disobedience movement will vanish. But, as long as the civil disobedience movement has an amount of sympathy from the people, it will persist. It will encourage our misguided youths to kill an official with a revolver in one hand and poison in the other and to throw a bomb amidst a dancing party. Government are, therefore, bound to protect their own servants and the public who are suffering from the consequences of this movement which has done India so much ill in the past. It is difficult to imagine how a Swaraj Government, if it is established in the near future, could do otherwise than what the present Government are doing. I have no doubt in my mind that if Mr. Gandhi or his followers were given the power to make laws, they will see that the civil disobedience movement is ended.

The other cause which has given impetus to the civil disobedience movement, especially in the northern India, is the agricultural distress. Times out of number I have pointed out that the distress is very great and widespread and agriculturists can hardly eke out an existence. Their whole income goes towards the payment of land revenue and water rates. Their hard labour and their equipment are all spent in payment of notified

liabilities at ludicrously high rates and the eyes of these poor agriculturists have grown dim with gazing on the pilot stars for a relief, but relief cometh not. They are buried in debts up to their ears. Sir, the State is a big tree and the agriculturists are its roots and branches and, if the roots are not watered, the leaves fall, the branches break down and the tree perishes and, then, there will be weeping and gnashing of teeth. Mr. President, the agriculturists are born in debt, they live in debt and they die in debt. And now I have a very serious complaint to make against the Honourable the Home Member and the Honourable the Law Member and, I hope, they will look into the point which I desire to urge before the House. Last year, in this magnificent hall, we discussed the provisions of the Usurious Loans Act. I then pointed out that the provisions of the Usurious Loans Act are absolutely ineffectual. They could not give any relief to those who are obliged to raise loans at exorbitant rates of interest. Government then made a definite promise to amend the law, but they have not brought in a Bill yet. On the other hand, they are bringing in this Bill which is very drastic in order to maintain law and order. They do not care tuppence for the distress caused by the slump in the prices of agricultural commodities. Is this the way in which you are going to relieve the distress among the agriculturists who form the bulk of the population of this great country? A year has passed, and I was looking forward to see during this Session, some amending Bill to correct the Usurious Loans Act, but I do not see it. Government are callously indifferent. If you cannot increase the prices of agricultural products, you can certainly reduce the rates of interest and give relief to the agriculturists and other persons who are buried in debts up to their necks.

The fourth cause which has led to the civil disobedience movement is the class conflict. I am not talking of the division of our countrymen into Hindus, Muslims, Sikhs, Parsis and Christians. These have existed since a very long time and they will continue to exist till greater enlightenment, political wisdom and political experience bring about communal concord by mutual consent. I hope the day is not very far when people will have common interests and give up this communalism. But, Sir, I am talking of another kind of unprecedented class conflict. Capitalists and labourers, employers and employees, landlords and tenants, even motorists and pedestrians are well-defined classes. Government, therefore, cannot ignore this unprecedented class conflict and, I am glad to see, that they have made some sort of provision against this class hatred. It is doubtful whether section 153-A of the Indian Penal Code can meet the present position, but I think a provision in this Bill will certainly meet it.

I now come to the Bill itself and let me say at the outset and quite clearly that I cannot, and, I shall not, agree to place this Bill permanently on the Statute-book. I will point out that some of the provisions can be inserted in the Penal Code, most of them should not find a place in the Penal Code and some of them should be cut out. Sir, our esteemed and able friend, the Home Member, has told you that Government are passing great powers into the hands of the Indians and, as there is a danger of upheaval, they have brought this drastic measure for the Assembly to pass. He has reminded us of the French Revolution and Communism in Russia, but I can tell him quite confidently that there is no Robespierre and no

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Lenin in this country. The Indian people are, as a matter of fact, very peaceful.....

An Honourable Member : What about Gandhi ?

Mian Muhammad Shah Nawaz : Undoubtedly, Mr. Gandhi is one of those gentlemen who would like to coerce the authority by mass action and, as he is armless, he thinks, albeit erroneously that the civil disobedience movement will probably be the best to achieve change of representative Government. Well, Sir, Gandhi is neither a Robespierre nor a Lenin. The Indian bent of mind is, as a rule, very gentle, tranquil and true. Our esteemed and learned friend, the Home Member, says that we should remove the odium of the Ordinances. But, what of the odium, that he is going to inflict, on the elected Members of this Assembly ? The Honourable Member forgets that after all we have the honour of representing certain constituencies in this House. Do you think, Sir, that we, who have the honour of representing certain constituencies in this House, could justify our presence in this Hall if we were to give power to the Government to confiscate credits, securities and monies by executive orders ? That is not possible, Sir, and we cannot do it. If there is an emergency, this Bill should be treated as an emergency Bill. The Government should not ask us to place it permanently on the Statute-book.

Sir, I will now come to the specific provisions of the Bill. My esteemed friend, Mr. Puri, has made a very long speech and he has dealt very exhaustively with each clause ; and, as I am not a long-winded speaker in this House, I will not take much time, but briefly express my opinion on the different clauses. My learned friend, Mr. Puri, has objected to clause 2 which lays down that if a person dissuades or attempts to dissuade any other person from entering the navy, army or air force, he will be liable to be imprisoned for one year or to pay a fine or to both. My learned friend has said that the intention ought to be an ingredient of this offence. There I differ from him. There are certain crimes in which intention is an ingredient, but there are other crimes where the effect of a certain action is a crime. Here the effect of dissuading would be not to allow people to enter the army or the navy. Therefore, the clause, as it goes, is free from objection. I can give an instance. A man drives rashly, going at a speed of twenty-five miles. He is liable to be fined, although he may not injure anybody, but the effect of such driving might be to hurt some one and so he comes within the clutches of law. So is the case with section 304-A. of the Penal Code. But why should we bother about this clause 2 ? Government say that the Congress leaders have been dissuading people from entering the army and police. What of that ? The people want employment. If Government want a thousand recruits for the army or the navy or the police, let them give me seven days' notice and I will provide them with such recruits and I am certain, that my Honourable friend, Captain Sher Muhammad Khan, can give them another thousand within a week. But I really think that the question does not arise. There may be rare cases in which persons were dissuaded from joining the army or police, but such cases are so very rare that I do not find any mention of it in the book called " India in 1930-31 ". Therefore, the clause, as it stands, is really quite harmless and will not affect anybody. We all want employment.

We are dying for employment ; please create employment for us so that
 1 P.M. we may have our bread ; we do not want butter ; we
 want only bread. For goodness sake, give us employment of any kind.

I now come to clause 3. I would have no objection to this clause, but I have serious objection to the explanation given thereto. Public servant is a public servant. It may be a servant of the Government ; it may be a servant of a railway company ; but public servant, as defined in this explanation, seems as follows :

“For the purposes of this section, a servant of a local authority or of a railway administration, and a person belonging to any class of persons declared by the Local

(At this stage Rao Bahadur M. C. Rajah, M.L.A., entered the Chamber and was greeted with Cheers.)

I am glad to see Mr. Rajah here after achieving a great success. (Continued Cheering.) Happily a settlement has been arrived at, and we are very glad that Mr. Gandhi has broken his fast. As I was saying, the explanation defines a public servant thus :

“For the purposes of this section, a servant of a local authority or of a railway administration, and a person belonging to any class of persons declared by the Local Government in the local official Gazette to be public servants for the purposes of this section shall be deemed to be a public servant.”

That is to say, an employee in a private concern or a factory can be declared to be a public servant by the Local Government. Is this fair ? Is this just, I will ask the Honourable Sir Brojendra Mitter ? I thought the definition of a public servant as defined in the Indian Penal Code was quite clear and satisfactory. It cannot be so extensive and all comprehensive ; it cannot be so wide. Anybody, any person who is employed anywhere, in any private concern, or factory, or manufactory that can be visualised, may be called a public servant. I have very serious objection to this definition and to these words : “a person belonging to any class of persons declared by the Local Government”. These words should be omitted and cut out entirely.

I now come to clause 4, which seeks to insert a new section 164-B in the Indian Penal Code. My learned friend, Mr. Puri, has referred to it and given us very interesting experiences. I entirely agree with him. This clause should not be made part of the Penal Code at all. As a matter of fact, this clause should be eliminated entirely. This clause can be enforced by a Notification by the Local Government. If you want this clause to be enacted, it should not be enacted by this House. Leave it to the Local Legislatures if you like ; and let them have a law according to their own peculiar conditions. I cannot agree, Sir, that this House should be made to consider a clause like this. The clause has already been read out by Mr. Anklesaria and by my able and esteemed friend, Mr. Puri. It is very drastic ; it is very objectionable. It gives great power to the public servants ; they are already too powerful. I must say that many men are frightened of a public servant. Take, for instance, the case of a patwari. I am perfectly certain that despite the fact that the Honourable the Law Member and the Home Member are the custodians of law and order, if I were to send a patwari from one of my villages to Simla, to measure the boundaries of their houses, they will soon realise the power of the patwari ; and

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yet the Government are ready to place a weapon of oppression, not only in the hands of public servants, but also in the hands of their relations, that is to say, any one who boycotts such relations, directly or indirectly, may be sent to prison. Again I come to the customary services. I remember the martial law days in Lahore in 1919 when British justice, for the first time, completely slept, when Colonel Johnson was in charge of the city of Lahore. That gentleman interpreted customary service to include the salute.

An Honourable Member : Sarkar Salaam.

Mian Muhammad Shah Nawaz : Do you expect that we should salute a public servant ? I dare say it is not included in the customary services, but it goes without saying that customary services include the supply of chickens and eggs and milk and fruits. Do you really desire that corruption should increase ? Is it not already too much prevalent in the country ? Do you really think that public servants should be the servants of the bureaucratic Government and not the servants of the public ? Do you think that they should be the monarchs of all they see and survey ? As it stands, this clause is most objectionable and it should not see the light of the day either here or in any of the Local Legislatures. But I contend that sections 186 and 189 of the Indian Penal Code are quite sufficient to meet the situation. I will read to you, Sir, these two sections: Section 186 runs thus :

“Whoever voluntarily obstructs any public servant in the discharge of his public functions shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.”

Section 189 runs thus:

“Whoever holds out any threat of injury to any public servant or to any person in whom he believes that public servant to be interested for the purpose of inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.”

Is that not enough ? I will now read clause 4—or section 164-B which will correspond to this :

“Whoever, with intent to prejudice any public servant in the discharge of his duties, or to cause him to terminate or withhold his services in the discharge of his duties, or to commit a breach of discipline, refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such public servant or any person in whom such public servant is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as he would ordinarily maintain with such person, shall be punished with imprisonment.....”

Without doubt there is a difference. The clause is very wide, very comprehensive. But the present situation can easily be met by sections 186 and 189 of the Penal Code. What is the good of giving wide powers to public servants ? They are likely to abuse them. They will use them for paying low prices for articles they get. A public servant may say “I can get a chicken for three or four annas in the rural areas and I will not pay more than three or four annas”. In this way the Government seek to give power to public servants to get supplies without adequate consideration—

which is already a crime under the penal law. But, Sir, cases of molestation or boycott of public servants are so very rare that they are negligible. Again, the explanation given underneath this clause really surpasses my imagination. It is stated there—"for the purposes of this section 'public servant' has the same meaning as in clause 164-A". That is to say, any person who is an employee in any private concern or in any private institution can be called a public servant, and if he is not given a supply of chickens or of eggs or anything eatable or if he is not given land on hire or a house or a building or a tent, then the person refusing to render such help or supplies can be ruined. This, Sir, is a very strange law indeed.

An Honourable Member : This is a lawless law.

Mian Muhammad Shah Nawaz : This law should not be inserted in the Penal Code. It will pollute the fountain head of criminal justice.

I now pass on to clause 7 of the Bill. This relates to picketing. I confess that picketing has, in some cases, interfered with the liberty of the individuals. It has certainly led to a serious riot in Benares where a hartal was proclaimed and a Muslim foreign cloth dealer did not close his shop and was consequently murdered. I know it led to a serious riot in Amritsar where the victim was a Hindu. I am aware that in Madras the picketing of toddy shops and liquor shops has led to serious riots. Therefore, picketing, if accompanied by intimidation or annoyance, can be made an offence. But here, again, I would request the Government to leave it to the Local Legislature. We should not be made to enact this law, and also the Local Governments should not be empowered to make it a law by Notification. If Local Governments want to make picketing an offence, they should do it with the assent of the Local Legislature by a measure of legislation or by a Resolution to be passed by them. Why should we be called upon to make a law for the Local Legislatures? Conditions in the different provinces vary materially; those conditions are not alike; I do not say that if picketing is followed by intimidation or annoyance or bodily harm, it should not be made an offence. But what about the temperance societies who desire that India should become dry, who think that drinking of liquor is a great evil and it should disappear.

Well, Sir, I remember, one day, I went to a party where a discussion took place on the life of Omar Khyam, and there I heard :

"Forget the past regrets and the future fears
With a flask of wine and thou singing beside in the wilderness
We will make paradise on earth."

That reminded me of Tennyson's poem :

"Fill the cup and fill the can
Have a row before the morn
Every moment dies a man
Every moment one is borne."

Immediately I came to the liquor shop which conveniently lies opposite to the house of my Honourable friend, Mr. Puri, I saw there volunteers singing a song in Punjabi :

"Bhan botal tor piyale nun
Lakhh lanat piwan wale nun."

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Its translation is this : " Break your bottle and break your cup, thousands of curses on one who drinks ".

Now, Sir, these were two paradoxical things, and I desire to know what my friend, Mr. Puri, would do under such circumstances, because I noticed that these volunteers were singing these songs to the detriment of the Parsi gentleman who owned the shop, and undoubtedly detrimental to the taste of my learned friend, Mr. Puri. Sir, this little song, though no doubt couched in very harsh words, had one good effect on the Sikh community. I know, in those days, the Sikh community to a man had given up drink, though subsequently they reverted to their own ways of folly and sin. I am giving these instances, because, while a certain song may persuade a man to improve himself or another song may curse another man, I think he will be a wise man who will listen to both the songs and do just as he likes. After all, you want a certain reform to be effected, and somebody must be injured. It is a question of the greatest good to the greatest number. If you think that the shops are at a short distance from the place where you can give lectures on temperance reform, or if you can abuse people who drink from the Town Hall which may be at a distance from the liquor shops, you will not be interfering with the liberty of the individuals directly. Indeed it may serve a good purpose. If clause 3 is to be passed into law, I do hope that it will be carefully considered by the Select Committee, if the Bill is referred to a Select Committee, and I should like to make it perfectly clear, at this stage, that I am entitled to throw out the Bill if it does not emerge from the Select Committee in a satisfactory manner and with the modifications we suggest. It must be a temporary dealing with an emergency.

I now pass on to clause 8.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I should like to know how long the Honourable Member is likely to take ?

Mian Muhammad Shah Nawaz : Half an hour or twenty-five minutes more, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Then I think the House should now adjourn.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, **Mr. President** (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mian Muhammad Shah Nawaz : Sir, I was dealing with clause 8 of the Bill. I have heard that the sins of the fathers can be visited on the sons, but I have never heard that the sins of sons and daughters can be visited on the father or the guardian. A provision like this does exist in the unwritten law of the Tribal Area of the Frontier Province. To some extent, it did exist in the Frontier Crimes Regulation of 1901, which happily has now been suspended. Under that iniquitous Regulation, if A gets a decree against B, and B cannot satisfy the decree, A can recover the decretal

amount from the relations of B or from the tribe to which B belongs. As a member of the Frontier Regulations Committee, I cross-examined several officials of the Frontier Province on this point of the Frontier Crimes Regulation. All the officials unanimously agreed that this sort of section should be cut out and should not exist in the criminal law of the land. Little did I dream that a provision, of the kind which I see now, would be placed before this House and that I should be asked to express an opinion on it. My opinion is this. Don't insert it in the Criminal Procedure Code, and don't add it after section 383. A son who is just under sixteen years of age is for several purposes a free agent. The son is a free agent to contract a marriage, and, if he commits a *breach of the peace*, why should he not be fined, and, if the fine cannot be recovered, why should he not be imprisoned? Under the provisions of the Penal Code, a boy—he may be a juvenile offender,—if he commits a crime, he is sentenced to imprisonment; if he commits murder, he is sentenced to transportation for life. Then, why should a boy, under sixteen years of age, not be imprisoned, and why should the father or the guardian be imprisoned if the fine is not paid by the son? But what would be the position if the guardian is a woman, and say, a *purdanashin* lady? Can she control the actions of her sons or her daughters? She may be called before a Court of justice and asked why her son has committed a breach of the peace. The simple answer would be: “I am a woman. I cannot control the actions of my son. I cannot go out. Why should I be fined or imprisoned?”

Well, Sir, this sort of clause should not be made a part of the Criminal Procedure Code. It will reflect on the British sense of justice, and Britishers are well known for their sense of justice. Can the Honourable the Home Member give me any instance in any civilised country where such a law exists? I do admit that if martial law is proclaimed in Germany or, for the matter of that, in England, such a law may be proclaimed by military authorities. But I have never heard of an instance of that kind where the country is generally peaceful. In this country, civil and criminal justice is being well administered, revenues are paid, the conditions in the rural areas are normal, we are not living in times of martial law, and there is no state of war in India. Then, why do you make a provision in this Bill which may be enacted only in days of martial law? I think this clause of the Bill should not exist even as an emergency measure. Cases under special laws under which guardians are punished for their wards, *e.g.*, smoking, are quite different.

I now come to clause 9. My Honourable and learned friend, Mr. Puri, has dealt with it. Suffice it to say that the offences under this section may be made cognisable, but they should all be declared bailable. There is no reason why they should be declared non-bailable. Offences of this kind, breach of the peace, criminal trespass intimidation picketing—they should all be made bailable and not non-bailable. Now, Sir, the most important clauses in the Bill are clauses 14 to 17. The Bill intends to make an addition in the Criminal Law Amendment Act of 1908. Honourable Members are aware that this Act was applicable, to begin with, to the provinces of Bengal and Assam, but its provisions could be extended by Notification by the Local Government to any other province. Gradually this Act of 1908 was extended to every part of the country by several Notifications. This Act consists of a few sections, 15, 16, 17 and 18. Section 15 defines

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an unlawful association. It means an association :

“(a) Which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, (*mark the word ‘habitually’*) or

(b) which has been declared to be unlawful by the Local Government under the powers hereby conferred.”

Section 15, sub-section (2) (b), gives wide powers to the Local Government to declare any association unlawful that they may deem fit. Under the provisions of the present Bill, the powers are given to the Governor General in Council. I have no objection to it ; indeed it may be an advantage, but the powers of the Local Government should be taken away. Sir, the Criminal Law Amendment Act makes it an offence if a member of an unlawful association takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, and he shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Then, sub section (2) of section 17 declares :

“Whoever manages or assists in the management of an unlawful association, or promotes or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.”

The law, as it stands in the Act of 1908, is sufficiently drastic. The present Bill proposes to add several sections to it. Clause 17-A is very important. Honourable Members perhaps have not seen the significance of this clause. I will briefly explain it to the House. The Local Government can declare any place which, in its opinion, is used by an unlawful association for unlawful purposes. The District Magistrate or any officer, authorised in this behalf, can take possession of the notified place, confiscate all the movables thereon and, if anybody remains in the premises, he is guilty of criminal trespass, and, contrary to the provisions of the Criminal Procedure Code, the offence is made cognisable and non-bailable. The magistrate then can notify to the Local Government that he has occupied such and such a place and that place may be returned to the real owner or it may not be returned. Take the case of an association which has taken a place on rent or lease, and it was so taken before the association was declared unlawful. You inflict a great hardship on the owner of the premises. He loses his contract. You interfere with the agreement in any way you like. This nullifies freedom of contract and freedom of action. The clause, as it stands, can be modified, provided that the person, who is in occupation, or some member of the unlawful association can show that it was not used for unlawful purposes and that it was used for all legitimate purposes. It may be used for political agitation, but all political agitation is not unlawful. The man who is the owner of this property and who may have suffered by the occupation of this place by the magistrate should be entitled to come forward and prove his case that he knew nothing and that his property should be released forthwith.

I now come to clause 17E. This is one of the most drastic clauses that I have ever seen. Briefly put, it entitles the Local Government to confiscate all securities, credits and monies which are used for the purposes of an unlawful association or are intended to be used for the purpose of an unlawful association. The monies can be confiscated even if they are in the hands of a third person and the Government can confiscate at its sweet pleasure. If a gentleman belonging to the C. I. D. reports to the Local Government or his superior officer that such and such credits or monies or securities are in the hands of such and such a person, and are used for the purposes of the unlawful association, the Local Government may, after making such inquiry as it thinks fit, confiscate those securities, etc. Further, an officer can go and inspect books and documents concerning those credits and securities and if the man, in whose possession those securities and monies and credits are, cannot pay or has not got them in his possession, then he must pay the market value of those securities and monies and, if he cannot pay, then they are realised from him as arrears of rent and the market value of the securities and monies are to be assessed by the Local Government. That means the judge and the prosecutor are combined in one person. There is a maxim—no *dahl*, no *vakil*, no appeal. This literally applies to the provisions of this most objectionable clause. The man cannot go to the Civil Court. Even in a criminal proceeding, he cannot show that the securities did not belong to the unlawful association and clause 17F renders him helpless and without any remedy. Let him go to dogs or to hell, the securities and credits, etc., shall stand confiscated. Is this the way you are going to administer justice? By all means confiscate the funds of unlawful associations if you can show that they were used for the purposes of the unlawful association, but the onus lies on the prosecution to prove its case and not on the innocent third party. This clause, I do not think, can be amended in any way. Possibly if the Government can prove affirmatively and positively that the funds, directly and not indirectly, belong to the unlawful association which has been declared unlawful either by the Local Government or by the Governor General in Council, you might confiscate them, but, in each case, you must give a chance to the man in charge of them to prove that the securities were never intended to be used for the purposes of the unlawful association.

I now come to clause 19. This adds certain provisions to the Indian Press Emergency Act of 1931. Honourable Members are aware that last year we passed this Act. It remains in force for two years. A Select Committee was appointed to go into the provisions of that Bill and I had the honour of sitting on that Committee. We went into the different clauses of the Bill and we cut out many clauses, and the clauses which are now intended to be added to the Press Act of 1931 were willingly cut out by the Government. I then pointed out that the words "directly or indirectly" were very drastic. I then pointed out, how very drastic were the following provisions which are now sought to be embodied in clause 20, namely :

" or which tend, directly or indirectly,—

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in

[Mian Muhammad Shah Nawaz.]

British India or any Indian Prince or Chief under the suzerainty of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or

- (e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or
- (f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or
- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force, ''

If any person commits any of the acts noted above, then the provisions of the Press Act of 1931 will at once apply. His security and deposit will be forfeited, his second deposit may be forfeited, and so on, and so forth. Sir, if these provisions were enacted into law, can any press or newspaper work satisfactorily, impartially and independently. (*An Honourable Member* : "What about the gutter press ?") I am not, Sir, thinking of the gutter press ; I am aware that the gutter press does exist in some parts of the country, I am aware that some vernacular papers now and then do some mischief, but the mischief is not so extensive as to entitle us to enact this sort of law, which does away with the liberty of the press. Mr. President, through you I would ask the Honourable the Home Member and the Honourable the Law Member, who were sitting with me on that Select Committee, whether or not it is a fact that the Government did agree to the cutting out of clause 20 from the Press Bill. If that is the case, then I ask, what are the reasons, what are the additional facts which the Government can produce so as to entitle them to put forward these provisions which nearly a year ago the Government agreed to give up ? Sir, a year has passed and I am as diligent a reader of the newspapers as my Honourable friend, the Home Member, but, I have not come across any instances in which the press has abused its power to such an extent that these provisions are now needed. (Applause.) Sir, I clearly think that the provisions of the Act of 1931 are quite sufficient to meet the situation. Indeed I placed all my amendments before the Select Committee. Some I won and others I lost on the floor of the House, but we were all convinced that we were at that time helping the Government and not obstructing them. There were some Members who were annoyed with me and thought that I had been hand in glove with the Government. That, of course, was absolutely untrue and has always been untrue, because I am not and shall never be with them if I find that they are not in the right. Then, Sir, the Honourable Sir James Crerar and we went into the clauses of the Press Bill and we came definitely to the conclusion that the Bill, as it emerged from the Select Committee, was quite sufficient to meet the situation,

because it gave quite sufficient and requisite powers to the Government to deal with the gutter press.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Perhaps the present Home Member is improving on Sir James Crerar !

Mian Muhammad Shah Nawaz : In fine, I think, Sir, that the civil disobedience movement is a dangerous movement, that having regard to all the facts, we must give the requisite power to the Government to deal with the situation. I do not, however, agree that the powers should be so drastic and so extensive as are given in this Bill. We, the moderates (*An Honourable Member* : "the non-descripts")—all right, we the Independents and we the "non-descripts" (Laughter) do urge on Gandhiji the necessity of withdrawing the civil disobedience movement, which, in our opinion, has done such ill to India in the past and which will do a great deal of more mischief to India in the future if persisted in. At the same time, we ask the Government to withdraw all repressive laws if the civil disobedience movement is called off. I do hope, that the Congress will now adopt a very reasonable attitude and will stop the civil disobedience movement. But, as I say, if the new constitution comes into force and it is satisfactory to the Liberals and the Moderates, then the Congress cannot be permitted to go on with the civil disobedience movement. The Government, therefore, must be given the necessary powers to maintain law and order until the new constitution can safely work, because, in my humble judgment, no constitution can be workable with trouble and disturbances in the land. (Applause.) Mr. President, I have given you the causes, the root causes which have led to the civil disobedience movement. I again say that we must tackle the problems involved which have given impetus to this ill-advised movement. If we cannot reduce the extent of the unemployment, if we cannot remove the agricultural distress, if the class hatred continues, as it continues now, then neither this Bill nor any other similar Bill, however drastic, will be of any avail. (Applause.) Sir, threats of civil disobedience are stultifying unless they

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carry with them the germs of constructive effort. They land us nowhere and are worse than futile.

The civil disobedience movement and the repressive laws do create a breach which it might take years to heal and they destroy all hopes of peaceful self-government. They do endanger the establishment of immediate self-government and, in the interests of India, we should make a supreme effort to prevail upon the leaders of the Congress to call off the civil disobedience movement, so that there may be no necessity for passing the present Bill, even in a modified form. I would like to make it quite clear, Sir, although I maintain that the requisite powers should be given to the Government to deal with the civil disobedience movement and the Bill may as well be circulated till the first of November by an executive order and the Select Committee should report by the 15th November, yet, if the Bill does not emerge from the Select Committee in a satisfactory form, then I reserve my right to throw it out at the third reading stage. (Loud Applause.)

Kunwar Raghubir Singh (Agra Division : Non-Muhammadan Rural) : Sir, no elected Member can be in favour of putting more shackles and fetters on the freedom of citizens. But my party (*An Honourable Member* : "What is the meaning of this 'But' ?") is generally in favour of the Select Committee. (*Mr. N. M. Joshi* : "It

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is not.") You are not in my party. Sir, when I support the motion for the Select Committee, I do so, not for stifling the constitutional agitation, but because we are face to face with a situation which aims at the overthrow of the entire social, economic and political fabric of society. So, it is but natural that abnormal measures should be taken to cope with the situation. It was, I think the Leader of the Nationalist Party, who suggested that the Ordinances, as framed by the then Governor General, should have been brought before this House for consideration. Sir, now that defect is being rectified and the Bill has been brought before the House for our consideration. Secondly, Sir, most of the obnoxious clauses of the Ordinances have been taken out as has been clearly said by the Honourable the Mover of the Bill. (*Mr. Gaya Prasad Singh* : "Then why refer it to Select Committee? Pass it at once.") You will understand everything when you reach that point. As I said, Sir, in the beginning, the present movement was affecting the social, economic and political fabric of society. So, I would take up all these points one by one to clear my point. Sir, the present society, as it is now constituted, will not remain in this very stage. Changes are bound to come and they are liable to affect the general state of affairs as we see from the examples of Afghanistan and Russia. Sir, like other countries in the world, the East also changes, but very slowly. The examples of Afghanistan and Russia have been an eye-opener to those who advocate drastic changes and the present movement is certainly meant to revolutionise the state of administration and of general society. Sir, in my province, the question of the no-rent campaign has been troubling us, I mean the Zamindars, and the Government equally. I was reading only the other day the *Pioneer* in the Library that some Raikes, as the Zamindars are called in my province, are receiving threatening letters from the terrorists. (*Mr. Lalchand Navalrai* : "You have not received any.") No. You are not one of the non-co-operators. Sir, even laudable steps are being hindered. This country being an agricultural country, most of us live on land and, if once the relations of landlords and tenants are disturbed, agrarian troubles begin and we do not know where we shall be. We shall get back at least three centuries as we were at the end of the Mughal rule, with the result that even the strongest Swaraj Government will not be able to control the affairs of the country. This is the effect which our economic life is bound to suffer if all the demands of the civil disobedience-wallahs were to be met. Sir, for an orderly progress, a well constituted and strong Government is very necessary. The civil disobedience movement aims at the negation of all government and, once this feeling is generated, you will not be able to hold on. I would go a step further and say, that even the Swaraj Government will not be able to check this terrorism which is now rampant. Sir, if the House will allow me, I will relate to it a small personal experience. (*Honourable Members* : "Certainly; take your own time.") I own some landed property in the district of Mainpuri. The man in charge of that landed property put to auction the crops of a tenant. The Congressmen, when they heard about it, came to the house of my *Karinda* and began to picket it. They remained there for about a week and did not allow anybody to go outside the house, not even for the calls of nature, and all the people remained shut up in the house. So, if this picketing is not coercion, I do not understand what it is.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : What is the name of the village ?

Kunwar Raghubir Singh : The name of the village is Baragaon. The clauses of the Bill will not affect any layman in his day to day duties and avocations, nor will they affect any constitutional agitation. If there is anything in the Bill which is distasteful to the House, it will not be beyond the ingenuity of my lawyer friends like the leader of my party and Mr. Gaya Prasad Singh—who, by the way, are also on the Select Committee—I say it will not be beyond the ingenuity of these legal luminaries to rectify these defects in the Bill. Pandit Jawahir Lal Nehru, the prime mover of the no-rent campaign in the United Provinces, has, I admit, a great hold over the young, but the older and the saner and more experienced men are against revolutionary changes. Men, like Babu Bhagavan Das, are against the Congress movement of no-rent campaign, and, though he was against the starting thereof, yet it was a pity that his advice was not followed and, before Mahatma Gandhi could come back from England, this no-rent campaign was started. In view of these facts, I would like to appeal to the Government to use more of the Indian Penal Code and the Criminal Procedure Code than measures like the Ordinances.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : There is now no difference between the Ordinances and the Penal Code.

Kunwar Raghubir Singh : I think to cover cases of intimidation, nuisance and coercion, there are good provisions in the laws I have just indicated. Coercion, nuisance and intimidation are absolutely against the wishes of Mahatma Gandhi, the apostle of non-co-operation and civil disobedience.

Mr. S. C. Mitra : Yet Mahatma Gandhi is in jail.

Kunwar Raghubir Singh : He will be out shortly. So long as these abnormal times continue, abnormal measures will have to be continued. Protests are useful to rectify wrongs, but complaint against great severity is unnecessary when they themselves court suffering. In conclusion, I appeal once again to the Government that lawful activities should never be curbed and that constitutional protests must be paid more heed to than they have hitherto been paid.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I quite agree with my Honourable friend, Mr. Puri, whom I wish to congratulate on his very exhausting and elaborate and also very exhaustive speech, that this is no doubt too serious an occasion to indulge in the vein of oratory. It is an occasion on which we ought to take courage in our both hands and, unmindful of cheap applause or the public frown, express our views with strict sincerity and according to the behests of our conscience. It is not, therefore, with an easy mind that I rise to take part in this Debate. It pains me very much to think that conditions in my country should be such as would necessitate the promulgation of drastic measures, on the other hand it is a matter of some satisfaction to me that Government have after all considered it fit to consult the Assembly, and, instead of adopting the doubtful method of renewing the Ordinances, have decided to adopt the regular method of placing them before the House in the form of a Bill and giving the representatives of the people a voice in the matter. The Assembly was

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never consulted when the Ordinances were first issued, nor when the previous Ordinances were renewed, and the Members of the Assembly, justly, complained that they were never thought fit to be taken into partnership in this business. Now that the oft-expressed wish is fulfilled, I hope Honourable Members would realise the responsibility which is being placed on their shoulders. Of the urgent necessity for some extraordinary measures, in order to meet the extraordinary conditions prevailing in this country, there can be no question. The Congress civil disobedience movement on the one hand and the extraordinary activity of the terrorist on the other hand threaten the country with complete chaos and, to meet the threat, immediate and drastic action was certainly called for. To begin with my own Province, the no-rent campaign of the Congress, if it was allowed to expand to its full capacity, would have ruined the whole Province, but it was speedily suppressed by the help of the new Ordinances, and general peace and tranquillity were soon restored. It is unnecessary to go back very far into the past in order to discover the evil effects of civil disobedience against which the present Bill is, mainly, directed. It may, however, be as well to remind Honourable Members of the conditions which existed at the beginning of June, 1930, when the previous civil disobedience movement had been allowed to run its course for full two months without resort by Government to extraordinary measures. The Honourable the Home Member has already quoted several extracts from the writings of Lord Irwin on the subject which clearly show how grave a situation had arisen and how serious a challenge had been made to Government's authority. To these statements I can add but little, unless it be to say that such a state of affairs had arisen that any one who disobeyed the Congress mandate did so at his peril. Merchants, who persisted in their normal trade, had their shops burnt down, their families were harassed and insulted by *siapa* and other forms of social boycott, and, in some cases, they were subjected even to personal physical injury. Government servants, who were but doing their duty, true to the salt they were eating, suffered greater hardships. Their families, in most cases in far off villages, were subjected to unspeakable insults and indignities and to every form of boycott and harassment, while the men themselves were compelled to work long hours, faced frequent risks to life and person, were taunted and abused on every possible occasion, and were even unable, in many cases, to buy necessities of life. One has only to mention the names of Peshawar, Delhi, Daspur in Bengal, and Sholanur in Bombay, to bring back recollections of what the Congress was responsible for in 1930. Memories of what happened in Cawnpore, in March, 1931, are still more clear.

So much then for past history. If there is less crime to be set to the Congress account in 1932, it is solely because of the prompt promulgation of the Ordinances, on the 4th January, when the Congress declared its intention to renew the civil disobedience movement. Even so, there is a fairly long list of insensate acts of violence or childish mischief to be set to its credit (or perhaps, I should say discredit). The present campaign was not a month old when the celebration of the Frontier Day by the Bombay Congress brought serious rioting in its train. The Congress may disclaim responsibility for the turn which events took, as indeed they invariably do when their misdeeds are made public. But those who read

the bulletins, issued by the Labour Sub-Committee of the Bombay Provincial Congress Committee, a few days before the riots occurred, will know where the blame lay. I will leave it to Honourable Members to decide what effect such phrases as "Listen, you devils of the British Empire, your days are numbered" or "We as the soldiers of free India will drive you out" are likely to have on the labourers for whose benefit they were written. A week or two later, Sirdar Sardul Singh's dictatorial orders, regarding the seizure of public buildings and offices, led to serious rioting in Behar, first, at Torapur in the Monghyr district and, later, at Shevhar in the Muzaffarpur district. On each occasion, a mob of villagers, whose feelings had been played upon by educated Congress workers, made a determined and murderous attack, with brickbats and lathis, on the police station and the comparatively small force of police within it.

Mr. Gaya Prasad Singh : Whose version is this ?

Sir Muhammad Yakub : This is the version which appeared in the papers, and I am not here to give an explanation to you. I consider it beneath my dignity to reply to these interjections.

The police were compelled to fire and several were killed and many injured, most of them unfortunately the illiterate dupes of those who had organised the attacks.

The same month saw a flood of violently worded leaflets, posters and anonymous letters in almost every province.

An Honourable Member : How do you know ?

Sir Muhammad Yakub : They were published in papers and I have got extracts with me. A typical one distributed in Sind reads thus :

"Inquilab, murder, zindabad ! Brother cloth dealers, you are requested to stop dealing in foreign cloth, else your stocks will be set fire to. Join the Congress and promote the cause of Swadeshim. Follow violence, use khaddar and offer heads. Reduce the use of the quantity of the articles on which taxes have been imposed. Reduce your post. Encourage Indian arts."

Mr. Gaya Prasad Singh : Where did you get this ?

Sir Muhammad Yakub : I need not answer you.

Another was circulated at about the same time, and reads :

"Caution. Beware of foreign cloth. Declaration of new war. To kill two birds with one shot. By burning the foreign cloth of Indian merchants we shall kill the Englishman. My foreign cloth dealers if you fail to refrain from booking fresh orders for dealing in foreign cloth during the month of March, your shops will be burnt like those in Cawnpore."

An Honourable Member : Were any burnt ?

Sir Muhammad Yakub : They were burnt at Cawnpore, Lucknow and other places. The deaf and the blind can never hear nor see.

Yet another case, this time from Bombay, where the Congress Emergency Council published in its bulletin a notice saying that it had decided to enforce a complete economic and social boycott against Jivatlal Pratap Singh, because he had done business with a firm on the boycott list. That

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some of the sections by Government servants. Besides this, the question of the life of the Bill is an extremely important one. It cannot be expected that the Act will remain on the Statute-book for all times, for, if discontent has become endemic and, what was regarded as an emergency, when the Ordinances were first promulgated, is now to be declared by the Government the normal state of affairs, it should be obvious that the perpetuation, in essence, of the Ordinance regime would not remedy the evil but could only aggravate it. A Government that is unable to restore normal conditions within a reasonable time, even though it is armed with extraordinary powers, shows that either its policy is wrong or it is inefficient. We are very often told about the duty of Great Britain to leave no legacy of a strife or evil to the self-governing India of tomorrow. The loading of the Statute-book with repressive legislation, of the most stringent character, would be indeed a novel way of discharging that duty. There can be no gainsaying the fact that, unfortunately, communal feelings are at their highest pitch these days and after the transfer of power into its hands, the majority will, I am afraid, play havoc with the minorities, in this country, by the help of these drastic measures. Therefore, I, belonging to a community which is a minority in this country, feel greatly alarmed at the idea of placing the drastic and emergency measures permanently on the Statute-book. But these points are all to be dealt with by the Select Committee, where I hope the Honourable the Home Member will show the same spirit of conciliation which he has shown as regards the Code of Criminal Procedure (Amendment) Bill. Of course, I do not see any reason for supporting the dilatory motion for circulation of the Bill ; the provisions of the Bill have not only been before the public for about ten months, but they have also undergone the test of being acted upon and sufficient public opinion has been expressed on them. It would certainly be a great tactical blunder on the part of this House if we were to throw out this Bill at this stage, because if as a certified Bill, it goes to the Council of State, all chances of its being modified or improved or altered would be lost ; and the drastic provisions of the Bill would stand for ever on the Statute-book. Therefore, I hope and pray that sensible Members of this House—not laughing Members and jokers like my friend, Mr. Gaya Prasad Singh.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order ; the Honourable Member should proceed on the assumption that the whole House consists of sensible men.

Sir Muhammad Yakub : But, Sir, exceptions prove the rule ; so I say that sensible Members of the House will realise their responsibility and will vote for this Bill being referred to the Select Committee.

Honorary Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official) : Sir, at the very outset, I want to say that I will be very brief and will not take any time over preliminary objections or the detailed examination of the Bill. I do not even propose to meet abuse by abuse and will not call names to the elected Members of this House, as has been done by the Honourable Mr. Puri, while appealing to the nominated Members and, if I appeal to the Opposition Benches, it will be a sincere and brotherly appeal and not by way of retort. Again, as was so ably and unreservedly pointed out by the Honourable the

Mover, this Bill has been necessitated by the civil disobedience movement. The Honourable Mr. Puri, in his usually, learned and analytical speech has asked the Government not to "govern" but to "go". His argument was based on the interesting illustration that where the majority of the people are of the opinion that two and two make five, those who have been saying that two and two make four, should, either revise their arithmetic or *go*. I fully agree with him, and advise the Government to *go* as soon as the majority of the people are actually against them. As a matter of fact, however, they themselves will not be persuaded to stay when that stage is reached. The real issue, therefore, is whether that stage has been reached or not. For this, we must examine our own records. During the past 12 years, a life and death struggle has been going on between the extremist section of the Indian politicians on the one hand, and Government on the other. Schools, Courts, Councils and even this Assembly have been boycotted from time to time. Even now, the extremists are not here. The presence of Honourable Members, who adorn the elected Benches here, is an index of a powerful majority being against that section. To-day, after 12 years, what do we see, schools are full, Universities are turning out more graduates than before, and the Courts are as busy as ever. That for 12 vacancies for the Indian Sandhurst, there should be over 400 applications shows that services are popular. All this shows, Sir, that the majority of people have not yet joined the ranks of the extremists, and Government should, therefore, *govern* and not *go*. (Applause from the Official Benches.) In reality, there are three sections of population in India, *firstly*, there are the extremists including the terrorists; *secondly*, there is the moderate school of thought who believe in constitutional methods, and, *thirdly*, the vast majority of the people who have no political views of their own but are open to conviction and most of whom have not even got political consciousness roused in them.

Mr. K. C. Neogy : To which class do you belong ?

Honorary Captain Rao Bahadur Chaudhri Lal Chand : I know to what class I do not belong. This class of people serves as a good material for exploitation and they form the majority. Now, the Bill is a real attempt to put a stop to this exploitation, and nothing else. Those of us, who have followed the activities of the civil disobedience movement in the United Provinces, know full well that the no-tax campaign began with rent and land revenue and not with income-tax, as the latter was likely to affect people who had a calculating spirit and could not be easily won over. Similarly, whenever there is a campaign against the recruitment to the services, they begin with the sepoy or the constable and leave the High Court Judges alone. Sir, this is all exploitation of the weak by the strong.....

Mr. B. Das : What about your exploitation of the *Rajats* ?

Honorary Captain Rao Bahadur Chaudhri Lal Chand : I belong to that class which is exploited. Sir, it is not only the duty of the Government to stop this exploitation, but it would be sinful on their part, and they would be failing in their primary duties if they allowed this pernicious propaganda of bringing about lawlessness in the country in this manner to continue. We have been told that people are starving and an economic depression of unprecedented magnitude has come

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over the country, and naturally the blame is laid at the door of Government. But might I ask, is there no such depression in democratic America or in Ireland? Sir, the depression is world wide, with this difference that in India full advantage has been taken of this depression and unemployment by the extremist section in order to spread disaffection against Government.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : What have Government done to solve the problem of unemployment and trade depression, as in all other parts of the civilised world?

Honorary Captain Rao Bahadur Chaudhri Lal Chand : Read His Excellency the Viceroy's speech. Sir, as I said just now, Honourable Members here belong to the school which believes in constitutional methods of agitation and reforms. They come to this House in face of the opposition of the extreme wing. They did not favour civil disobedience and non-co-operation, otherwise they would not have been here. This was the fundamental difference between the two schools. They are, however, now brought into direct clash with the extreme wing, inasmuch as, the question is, whether civil disobedience is in the best interests of the country or is detrimental to its interests. At the time of the election, Honourable Members gave an impression that they thought it was not in the best interests of the country, and I hope when they are approached by Government to put a stop to it, they will not, by their conduct in this House, say that they were then mistaken. Sir, lest I may not be misunderstood, I wish to point out that I do not in any way minimise the great services, this moderate section, to which Members of this House belong, has done to the country.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Please do not insult us.

Honorary Captain Rao Bahadur Chaudhri Lal Chand : At every step in the Reforms they have been successful in bringing about pressure upon Government to give as much as possible. The stage has now arrived when full provincial autonomy is in sight and the prospects of a united Federated India are also very near. Every step forward means that our responsibility is increasing. Time is not far off when the Treasury Benches will be adorned by the leaders of the different parties in this House. At a time like this, Government have approached this House to give them extra powers to maintain law and order in the country, and it is only fair that future administrators of this country should approach this difficult Bill with its far-reaching implications and consequences, in the spirit of that great responsibility, which they are going to shoulder in the near future.

Craze for popularity is one of human weaknesses. The elected Members passed through this ordeal when they sought election in face of opposition, and I hope the same strength of conviction will be displayed while dealing with difficult problems.

I confess that I cannot say 'Aye' to every word of this Bill. There are certain clauses of the Bill which will certainly need modification. Clause 8, for instance, is liable to be stretched to absurd lengths by some over-zealous magistrates down below.....

Mr. Gaya Prasad Singh : You will not be nominated again if you speak like this.

Honorary Captain Rao Bahadur Chaudhri Lal Chand : Sir, the reason for the liability of guardians and parents for acts of children is not far to seek. It was part of the programme of the civil disobedience movement that prisons should be filled and that prison administration should be made impossible. When these magistrates saw this, they began to inflict fines in place of imprisonment, and the result was, that peoples' properties were attached and disposed of. But ingenious brains in the other camp invented devices to defeat Government, and it was in order to defeat such magistrates and the Government that children were put at the front so that no property might be attached or disposed of. (*Mr. B. Das :* "You are insulting those children.") Similarly, the phrase in clause 7 "in whom they are interested" is much too wide and will have to be limited. All these can fully be discussed in the Select Committee, and, I am sure, the Honourable Mr. Haig will show such magnanimity and broad-mindedness in accommodating the Opposition as he showed on the amending Bill of section 526 of the Criminal Procedure Code. My Honourable friend, Mr. Puri, gave a graphic analysis of the Bill when he characterised it as imbibing constitutional affection for Government servants in the hearts of the people. (*An Honourable Member :* "He said statutory affection".) Let it be so. May I now literally paraphrase the Bill? It comes to this, *firstly*, that people shall not be prevented from entering the Public Services; *secondly*, that public servants as such shall not be allowed to be boycotted or molested; *thirdly*, that mischief-mongers shall not be allowed to use children for their work; and, *lastly*, that unlawful associations shall not be allowed to foster in this country. Sir, there may be honest differences of opinion regarding the methods that have been proposed to achieve these ends, but no one here probably will say that these things should be allowed or even countenanced by this Honourable House. Certain methods have been proposed by Government. They have the sanction of a year's working behind them, and this working provides material for discussion. The Select Committee will consider all these methods and the Bill will emerge shorn of all these defects. It is probably for this reason, that the Press has been comparatively quiet over this Bill ever since its introduction into this House. My Honourable friend, Mr. Puri, suggested that the prison gates should be thrown open, and that it is not for people to go in, but for people to come out. But was not this done before the second Round Table Conference, and has not that experiment failed? (*An Honourable Member :* "Who is responsible for its failure?")

Mr. B. R. Puri : That was not my point.

Honorary Captain Rao Bahadur Chaudhri Lal Chand : This was because the leaders could not control the younger generation, and they could not afford to displease them.

[Honorary Captain Rao Bahadur Chaudhri Lal Chand.]

Sir, this is not a new Bill. It has not only been in circulation for ten months, but has been actually operating during this period. But for this Bill in the shape of Ordinances, the country would have been to-day in the throes of a revolution, and, therefore, circulation is not necessary.

Looking at it from another point of view, the introduction of this Bill should be welcomed by this House. The general trend of speeches at Delhi was that if the Ordinances were not brought before this House, this House had better be dissolved. Consistency requires that Honourable Members should avail of this opportunity that is offered to them.

One word more, and I have finished. The civil disobedience propaganda has gone into the villages, and, as the messages from above have to pass through so many agents, they reach the villager in a disguised and different form, and sometimes they assume shapes which were never intended by those who broadcasted them. I give one instance to illustrate my point. A client came to me the other day and asked me if the execution of a decree for Rs. 4,000 against him could be delayed till the New Reforms. On my saying no, and thinking that I was trying to refuse the case, he at once offered a decent fee. Again my reply was the same, and I told him that the money should be utilised in bringing down the decretal amount. Now, the reason that he gave to me for this was very interesting. He said that some people had gone to his village and told them that the National Congress and Mahatma Gandhi were in favour of repudiation of all debts of the country, and they wanted to begin a new era of Swaraj with a clean slate for all. I need hardly say that this was the result of the repudiation of national debts by the Congress. Besides, the material employed for the boycott is of a very undesirable type. A lawyer friend of mine in Delhi told me that his servant joined the volunteers and, after picketing for some time in the Cloth Market, was sent to jail. On coming out, he came to his old master and brought some money also with him. On enquiry whether he was getting any pay in jail, he said that he collected the amount from cloth merchants when allowing disposal of foreign cloth. Even this could be tolerated, but the difficulty is that civil disobedience is a breeding ground for terrorists. As all Honourable Members here detest that movement, it is only fair that they should take steps and nip the movement in the bud. With these few words, I appeal to Honourable Members to accept the principle and leave modifications to the Select Committee.

We have all along cried against a regime of Ordinances, and it is now for us to put an end to this era by giving a Bill sanctioned by this House to Government. The opportunity, for which we pressed so hard in Delhi, has come. A refusal at this stage will only create an emergency and occasion for Ordinances to continue and will also show that we want Ordinances and not law made by this House. (Loud Cheers.)

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara : General) : I rise to oppose the motion moved by the Honourable the Home Member. When introducing this Bill, the Honourable Mr. Haig said that as the civil disobedience movement, to control which the Ordinances had been promulgated by His Excellency the Governor General, had not completely died out, though it had been brought under control, it had become necessary for him to ask this House to embody the provisions of the most important of the Ordinances in the permanent criminal law of the land. Sir, I can appreciate the humour of this declaration of the Home Member, though I see no logic in it. Because a temporary political phenomenon had arisen and has not completely subsided, therefore the permanent criminal law of the land should be altered so as to be incorporated into it the drastic provisions of the Ordinances is not a conclusion which can be logically arrived at. He has not shown by placing facts or concrete cases before us that the executive Government are unable to carry on their functions satisfactorily without assuming powers which this Bill proposes to give them. We admit that the executive Government of a country are entitled to come

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to the Legislature of that country and ask for extraordinary powers to meet extraordinary situations. Just as the executive Government have got the right to approach the Legislature for such powers, it is the right of the Legislature carefully to examine the provisions of the Bill embodying that demand in relation to the situation which the Government say had arisen and which had compelled the Government to ask for the conferment of those extraordinary powers. It is the bounden duty of a Legislature to examine and see that the executive Government are not invested with powers in excess of what the situation demands, powers which are liable to be abused by the executive. More particularly, it is the bounden duty of the Legislature to see that these requests are refused if, in the opinion of the Legislature, the powers are not only liable to be abused, but they are to be exercised by an executive which is irremovable by the Legislature.

We all here think, and I think the whole country thinks, that the powers which the criminal law of this country confers on the executive Government are not only sufficient to enable the Government to discharge its functions and carry out its duties for the proper administration of the country, but that these powers are more than sufficient for the purpose. If, therefore, the executive ask for further powers, they have to make out a case and satisfy the Legislature that a situation has arisen which requires that the Government should be invested with powers still more drastic than what they possess. But, as I have said before, they have not done so. They have not convinced this House so far by the facts, that they have placed before us, that they are entitled to be invested with further extraordinary powers.

The Honourable the Home Member, his face wreathed in smiles, his countenance free from the slightest trace of administrative anxiety or care, invites this House to agree to invest the Government with powers embodied in this Bill,—a Bill, for which, with my limited knowledge of English, I find it difficult to find an adjective fully expressive of its implications, save one which I may not use. It reminds me of the good old lady, Mrs. Partington, who sat snugly, prepared to take a good breakfast and calling in a cajoling voice to the chicken hopping round her : “ Come, come and be killed.”

[Diwan Bahadur Harbilas Sarda.]

Sir, unless and until the Honourable the Home Member convinces us of the necessity of investing Government permanently with powers with which no legislature in the world has permanently invested any executive Government, it is futile for him to expect this Legislature to agree to give him what he demands.

Looking at this Bill, in the light of the principle which I have laid down in regard to what the executive can claim and what the Legislature should or should not give, I find that there are two features in this Bill which make this Bill quite unacceptable to this House. They are the duration of the Bill and the extent of its provisions. If the Honourable the Home Member expected us to accept his assurance that the Bill had been introduced in the Assembly only to enable the Government to control and deal with the civil disobedience movement, then he should not have introduced it in the shape in which he has done. He does not say that the civil disobedience movement is going to be a permanent feature of Indian political life. It is a temporary movement which has come into existence lately, and he does not contend that this movement will last for ever. If, therefore, he had introduced a Bill limiting the life of that Bill to one year or 18 months or two years, we would no doubt have understood and appreciated his motive and we would not have doubted his *bona fides*. But, in order to deal with a temporary malady, he proposes that the medicine which had been prescribed for it should now be made the normal diet of the sick man. That shows that it is not to deal with the civil disobedience movement only that this Bill has been introduced, but that there are other reasons for it. Possibly the idea is completely to control the public activities of the inhabitants of this country for ever.

Now, so far as the extent of the provisions of the Bill is concerned, I will give two instances to show that the provisions of this Bill, as I understand them, are all embracing. In clause 2 of the Bill, it is enacted :

“Whoever dissuades or attempts to dissuade the public or any person from entering the Military, Naval or Air Service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”

There is a proviso, but it does not cover a case in which advice is given in good faith, but not for the benefit of the individual to whom it is given. Under the clause, if anybody tries to persuade any person not to enter the military of Government, and that advice is not given for the personal benefit of that person, the person who gives that advice is liable to be hauled up and imprisoned. This, Sir, is too comprehensive and unjust a provision to be embodied in an enactment. Take, for instance, the case of a man who is out of employment. He wants to enter the military service of Government. His wife tries to persuade him not to do that and tells him that if he is sent on field service and is killed, she would be left a widow, and there would be nobody left to look after her. Now, under the terms of this clause, she will be liable to be hauled up.

The Honourable Sir Brojendra Mitter : No, no.

Diwan Bahadur Harbilas Sarda : I know it is not the intention of the Government that this clause should be applied to a case like that. but it is so loosely drafted, it is so comprehensively worded, that it covers such a case.

The Honourable Sir Brojendra Mitter : It does not. It comes within the protection of the proviso.

Diwan Bahadur Harbilas Sarda : No. The proviso only applies to the case of one who tries to dissuade a person "in good faith for the benefit of that individual" from entering such military service. It does not apply to the case where the wife tries to dissuade the husband, for her benefit. (Laughter.) Therefore, by no twist of language, can you extend the exception to protect her. You may try to interpret it in whatever way you like, but the words do not admit of that interpretation, and the wife is liable to be hauled up before a Court. What I contend is, that the Bill is so badly and loosely drafted, that unless it is modified, it can be applied to such a case.

Now, take another clause, clause 7. It is proposed to add section 507A, which is :

"Whoever, with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,...loiters at or near a house where such person or anyone in whom such person is interested resides or works or carries on business or happens to be, or persistently follows him from place to place,.....shall be punished with imprisonment for a term which may extend to six months....."

Now, this provision too is equally too comprehensive, and unless it is modified or the intention of Government is translated by words into restricting it to certain political matters, the clause, as it stands, will cover the case of a man interested in and working for social reform. A person, 70 years old, is entitled to, and has a right to, marry, under the law, a girl 14 years and 3 days old. If a social reformer or anybody, who takes interest in purifying society, tries to dissuade that man from following that course, and if he loiters or stands in front of the door of that man's house, under this law he can be prosecuted (Hear, hear), for there is nothing to show that the provisions of this section will be limited to political matters only. If a man takes part in any activity of a social nature or of an educational nature or an economic one, it will bring him under the provisions of this law, and he will be liable to be prosecuted. I am, of course, convinced that Government's intention is not to bring such cases under the clause, but the Bill is so worded that any magistrate or any Local Government, that wishes for any reason to bring an inconvenient person within the clutches of the law, can do so under this clause. I, therefore, think that the Bill, as framed now, is too comprehensive to be acceptable to the House. If it was properly framed and, if the duration of the legislation was limited to one or two years, we could at least appreciate the motive of the Government and accept their assurance that they want only to have the power to deal with a particular movement. And, until that is done, we cannot consider this Bill and we must, therefore, vote against it.

Mr. N. M. Dumasia (Bombay City : Non-Muhammadan Urban) : Sir, it is a cruel irony of fate that on the eve of a great political change,—when we are on the very threshold of Responsible Government—we should have been called upon to consider a measure most distasteful alike to the Government and the public. (Hear, hear.) But as the late Mr. Gokhale once said, "while the plans of statesmen have matured slowly, events designed by malignant fates have moved faster".

[Mr. N. M. Dumasia.]

A terrible responsibility has been cast on us and the manner in which we discharge it will prove the measure of our fitness for Swaraj. If this Bill is designed to crush the spirit of Indian nationalism, then every Member will consider it his duty to crush it instantly and mercilessly ; but, if it is designed, as claimed by the Honourable the Home Member, to meet the civil disobedience movement, then it should be considered on its own merits. The admirable restraint, with which the Home Member has put forward his case against the civil disobedience movement, must disarm every criticism against Government on the score of vindictiveness. I am sure that the present measure, though necessary, will generate further agitation and discontent in the country, but however obnoxious the measure, and however painful the duty and whatever the consequences, I submit that neither Government nor the Legislature could abdicate their proper function. We would not be fulfilling our duty to the public if we hesitated to accept the opprobrium of passing a drastic measure, if it was conceived in the best interests of the country. It is rightly said that " Law is not the enemy but the friend of liberty, and that only in a State, in which the laws are obeyed, can men be free in their varied occupations ". It cannot be denied that the civil disobedience movement interfered with and ruined legitimate business of innocent persons on whom depended their and their family's living. I cannot help paying a tribute to H. E. Sir Frederick Sykes, the Governor of Bombay, and the aggrieved merchants, for their patience in spite of provocation and Congress dictation. Sir, the civil disobedience movement, which has been launched to overthrow the Government, has inflicted greater losses on society than on the Government, and the cruel social boycott which was enforced to turn public servants in Gujerat against the Government was more tyrannical than any of the tyrannical laws enacted by the Government to check organised disorders. But it cannot be denied that while several of the patriots—the flower of our manhood and womanhood—who are rotting in jail, though disloyal to the Government, were intensely loyal to their country and, on the ground of patriotism to their country, the late Mr. Messingham, Editor of the *Nation*, defended the Slav regiments that had surrendered to the enemy in the War. Though I confess that this measure is intended to check a subversive movement and save the public from grievous economic loss and widespread distress, it will be regarded by many patriotic persons as a weapon of repression and it should, therefore, not be allowed to remain on the Statute-book a day longer than is absolutely necessary, and I put it to the Government that the best way of allaying discontent, that it will generate, is by hastening the advent of Responsible Government in India.

Before I came to Simla, I consulted some eminent men in Bombay as to the line of action to be adopted regarding this Bill. One gentleman told me that the civil disobedience movement was a lawful movement ; that it was the only way of teaching a lesson to the Government under the cruel burden of whose heavy taxation people were groaning. Another gentleman, equally eminent, said that so long as the civil disobedience movement for overthrowing the Government and establishing the Mob Raj continued, it was the duty of every responsible Legislature to consider the Bill on its merits and accord that measure of support which it deserved to preserve

the society from disintegration, and Government from disruption. Were I convinced that the civil disobedience movement was dead and that it would not be revived, I would strongly oppose this measure, but my doubts on this point were cleared by Mr. Gandhi's letter to Sir Samuel Hoare, dated the 13th March, in which the apostle of the Non-co-operation Movement made it clear that for him civil disobedience movement was an article of faith. In the very same letter, Mr. Gandhi talks of repression as embittering the already bitter relations between the Government and the people. He says that it is not by stopping the civil disobedience movement that the process of bitterness can be removed. Is not the civil disobedience movement also embittering the feelings and are Government to sit with folded hands when a subtle movement for its destruction is allowed to proceed unchecked? The reply is obvious. Neither the Government nor responsible citizens with a sense of civic duty and civic responsibility can sit silent when the work of destruction continues.

As I have said in the beginning, this Bill should be crushed if it were designed to stem the rising tide of nationalism, but if it were intended to deal with the spirit of lawlessness, and a menace to public safety then it should be given that treatment which the gravity of the occasion requires. Lawlessness should be suppressed at all costs. It should be admitted with shame that exceptional circumstances do exist in the country which call for exceptional measures, but these measures should not be of a permanent character. It is not fair to place opprobrium of a repugnant measure on the present Legislature; nor is it fair that the present Government should embarrass its successor by exhausting all preventive and punitive measures. It should be left free to choose its own weapon from its own armoury to cope with the situation that may then arise. If Government seek this power for the safety of its successor, then I do not think it should receive encouragement at the hands of any Member; but if it is designed to check errorism and communism, it must command sympathetic and careful attention at the hands of the Members of all parties. The civil disobedience movement, which was a challenge to Government, will be a most terrible legacy, for any future Government to inherit and it should not, therefore, be tolerated both by the Government and the people of India. In his recent memorable interview given to the representatives of the Press at Yeravada, Mr. Gandhi said that untouchability is an issue of transcendental value, far surpassing Swaraj. Sir, the country is to be congratulated on the miracle that has happened at Poona, namely, the removal of untouchability—a curse of centuries in India—by a stroke of the pen. Mr. Gandhi's triumph is the biggest triumph of the biggest man in the world and it has added the most brilliant chapter that has ever enshrined the pages of history of this country of ancient civilisation. Let us hope that the other question of life and death to India, namely, the attainment of Swaraj will be peacefully settled by the Government and Mr. Gandhi.

But just as the problem of the depressed classes surpassed every issue in Mr. Gandhi's eyes, so the civil disobedience movement transcends every issue including Swaraj which, if won by means disastrous to the peace and prosperity of the country, would be short-lived and, therefore, not worth having. (Hear, hear.) We cannot deny that exceptional circumstances exist in the country to-day, but who is responsible for it? During the War, we were constantly told that it was fought to make the world safe for democracy and that there would be self-determination for all the subject

[Mr. N. M. Dumasia.]

racess after the war to win which India gave its best treasure in men, money and materials. After the war, we were told that self-determination was not for India, but only for enemy countries to free whom India was, in the words of Lord Hardinge, bled white. India, however, got, as its reward, the Rowlatt Act, which was the real parent of the civil disobedience movement. Add to that the currency muddle and the Jallianwala Bagh affair which drove iron deep into the souls of the people. That is, however, past history. Let it be buried in oblivion. Let us hope that the Round Table Conference would enshrine some bright pages in the history of British connection with India and that it would bring peace and prosperity to our much troubled and unhappy land. Let us hope that, with the advent of the promised responsible Government in the near future, the need for this drastic law would disappear and that India would soon enjoy the blessings of peace.

While I am prepared to support an emergency measure for a limited period, for eradication of terrorism and communism, I must raise a warning against the permanent statutory restriction sought to be imposed on the Press. These are abnormal times ; and they are bound to pass away as soon as the constitution, now being hammered out, is finally settled. We value nothing more than the freedom of the Press, a most valued gift from the British and if that gift is taken away, the next step in the political advance, however great, will be a very poor substitute for depriving us of a right that has made the Indian Press a most powerful factor in releasing liberal and progressive forces in India. If the disruptive forces are driven underground, they will not tend to the stability, but to the disruption of the British rule in India. I do not mean to say that the Government should not take effective measures in putting down seditious and subversive movements with a strong hand, but I submit that the ordinary law of the land now in existence is sufficiently stringent. I say this from my experience as one of the oldest journalists of at least 42 years' standing. The law that secured the conviction and long term of imprisonment of Mr. Gandhi and the late Mr. Tilak cannot be said to be erring on the side of leniency. No Legislature would or could agree to permanent statutory provisions against the freedom of the Press. The translation of the provisions of the Ordinances against the Press into a permanent Act will be a standing insult and indignity to the Indian nation and it will give rise to an agitation which will not cease till they are repealed. I, therefore, request the Government, and appeal to them with all the earnestness at my command, not only to modify some of the drastic provisions, but to limit and define the period of the operation of the law as, otherwise, it will be a constant source of irritation, agitation and discontent throughout the country and embitter the already embittered public feelings. India wants peace and only high statesmanship and a spirit of conciliation which, I know, our sagacious Viceroy Lord Willingdon possesses in abundance, will bring that peace in India.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 28th September, 1932.

LEGISLATIVE ASSEMBLY.

Wednesday, 28th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

QUESTIONS AND ANSWERS.

†847 *—902.*

CENSORSHIP OF CINEMATOGRAPH FILMS.

903. *Mr. K. C. Neogy : (a) Is it a fact that Government are in communication with the Secretary of State for India regarding the question of censorship of cinematograph films, and safeguarding British interests in regard to films exhibited in India ?

(b) If so, will Government be pleased to make a statement on the subject explaining the points under examination ?

The Honourable Mr. H. G. Haig : (a) The Government of India have been in correspondence at different times with the Secretary of State in connection with the questions referred to in the report of the Cinematograph Committee, the terms of reference to which included the censorship of films and the desirability of encouraging the exhibition of films produced within the British Empire generally, and the production and exhibition of Indian films in particular.

(b) The consideration of these matters is at present in abeyance.

†904 *—1013.*

CONFIRMATION OF ASSISTANT CONTROLLERS ON THE NORTH WESTERN RAILWAY.

1014. *Mr. Lalchand Navalrai : (a) Will Government be pleased to state if they have considered the case of 51 Assistant Controllers whose confirmation was in question, as promised in reply to my starred questions asked at the last session of the Assembly ?

(b) Is it a fact that out of 51 men, 14 have been left over and the rest confirmed ?

(c) Is it a fact that the North Western Railway have further taken five new men from other branches of the Railway to the Controller's line ?

(d) Is it a fact that in deciding the confirmation of the Assistant Controllers, the principle adopted was that the incumbent should have had long service experience in the Railway Department ?

Mr. P. R. Rau : I have called for certain information and will lay a reply on the table in due course.

†1015 *—1019.*

†These questions will be answered later.

(1485)

SITE FOR STATIONING OF A BATTALION OF BRITISH TROOPS AT DACCA.

1020. ***Mr. K. C. Neogy** : (a) With reference to Government decision to station a battalion of British soldiers at Dacca, are Government aware that the site provisionally selected for their camp is in the proximity of an ancient and well-known Hindu temple which is resorted to by a large number of people, including women, every day ?

(b) Are Government aware that this has caused a good deal of apprehension in the minds of the Hindus of Dacca, and that a deputation of the Dacca People's Association waited on the District Magistrate to place the views of the local residents before him ?

Mr. G. R. F. Tottenham : Government have no information. I have made inquiries from the Bengal Government and will lay a reply on the table in due course.

RE-APPOINTMENT OF SOME MEMBERS OF THE INDIAN CIVIL SERVICE WHO HAD RESIGNED FROM THE SERVICE.

1021. ***Mr. K. C. Neogy** : (a) Is it a fact that some members of the Indian Civil Service who had resigned from the service, have again been provided with appointments by Government recently ?

(b) If so, will Government be pleased to state, with reference to each such case, when and why the officer had resigned ; and why and on what terms his services have been re-entertained by Government ?

The Honourable Mr. H. G. Haig : (a) One such officer, Mr. Prance has been re-employed in Bengal recently.

(b) Mr. Prance retired on proportionate pension in 1924 after 18 years' service. On hearing of the murders of British Officers he volunteered to come out to his old province of Bengal and his offer was gladly accepted by the Government of Bengal and the Government of India. It is obviously in the public interest to make up the deficiency in experienced district officers caused by terrorist outrages by re-employing retired officers who volunteer for service. He has been appointed on contract for a period of two years on a pay of Rs. 2,250 a month and overseas pay at the rate of £30 a month. His contract also contains provision for leave and a return passage to England. His proportionate pension will be held in abeyance during the period of his re-employment.

REFUSAL BY THE CENTRAL PROVINCES GOVERNMENT TO PERMIT MEDICAL MEN TO JOIN THE INDIAN MEDICAL ASSOCIATION.

1022. ***Mr. S. C. Mitra** : (a) Are the Government of India aware that some of the Local Governments, particularly the Central Provinces Government, have refused to permit the medical men in Government services to join the Indian Medical Association ?

(b) Is it a fact that medical men in Government services are permitted to join the British Medical Association and its branches in India ?

(c) Is it not a fact that the British Medical Association is an institution composed of all sections of medical practitioners and has no Government control over it ?

Mr. G. S. Bajpai : (a) Government have no information, but are making enquiries.

(b) Yes, if they are eligible under the rules of the Association.

(c) Yes.

INDIAN AND BRITISH MEDICAL ASSOCIATIONS.

1023. ***Mr. S. C. Mitra :** (a) Is it not a fact that the British Medical Association has standing committees to safeguard the interests of the Indian Medical Service and other services and also criticise Government whenever necessary ?

(b) Is it not a fact that most members of the Indian Medical Service and Royal Army Medical Corps are members of the British Medical Association ?

(c) Are the Director General, Indian Medical Services, and the Director of Public Health members of the British Medical Association and the Indian Medical Association ?

(d) Are Government aware that the Indian Medical Association like the British Medical Association is a purely medical organisation, composed of medical men only, the membership of which is open to independent practitioners as well as to medical men in Government services ?

Mr. G. S. Bajpai : (a) There is a Services Committee of the British Medical Association, which deals with questions concerning Government Medical Services.

(b) Yes.

(c) The present incumbents of the posts of Director General, Indian Medical Service and Public Health Commissioner, are members of the British Medical Association, but not of the Indian Medical Association.

(d) Government regret that they have no detailed information as to the constitution and membership of the Indian Medical Association, but are making enquiries.

DISCRIMINATION IN ALLOWING MEDICAL MEN TO JOIN THE INDIAN MEDICAL ASSOCIATION.

1024. ***Mr. S. C. Mitra :** (a) Will Government please state why they make a discrimination against medical men in Government service by refusing to permit them to join the Indian Medical Association ?

(b) Do the Government of India propose to take necessary steps to remove this ban on Government servants joining the Indian Medical Association ?

Mr. G. S. Bajpai : (a) The Government of India have not refused permission to medical men in their service to join the Association.

(b) Does not arise.

RESOLUTIONS PASSED BY THE ALL-INDIA MEDICAL CONFERENCE.

1025. ***Mr. S. C. Mitra** : (a) Are Government aware of the resolutions passed by the last VIII All-India Medical Conference ?

(b) If so, do Government propose to take any steps on the resolutions ? If so, what ?

Mr. G. S. Bajpai : (a) Government have not yet received copies of the resolutions officially.

(b) Does not arise.

†1026 *—1031.*

EXPIRY OF CONTRACT FOR THE CARRIAGE OF MAILS BY THE BRITISH INDIA STEAM NAVIGATION COMPANY, LIMITED.

1032. ***Mr. K. C. Neogy** : (a) Will Government be pleased to state when the present contract for the carriage of mails with the British India Steam Navigation Co., Ltd., will expire ?

(b) Will Government be pleased to state whether public tenders were invited for the last contract for the carriage of mails made in 1924 ?

(c) If the answer to part (b) be in the negative, will Government be pleased to state the reasons ?

Mr. T. Ryan : (a) The 31st January, 1934.

(b) Yes.

(c) Does not arise.

TENDERS FROM STEAMSHIP COMPANIES FOR THE CARRIAGE OF MAILS.

1033 ***Mr. K. C. Neogy** : Will Government be pleased to state if they propose to invite public tenders from steamship companies for the new contract for the carriage of mails on routes referred to in the existing contract with the British India Steam Navigation Co., Ltd., dated the 26th May, 1924 ?

Mr. T. Ryan : Yes, in respect of such of the services and routes as may be required.

PARTICIPATION OF INDIAN SHIPPING IN THE COASTAL AND OVERSEAS TRADE OF INDIA.

1034. ***Mr. K. C. Neogy** : Will Government be pleased to state whether in view of their expressed policy of providing for "an adequate participation of Indian shipping in the coastal and overseas trade of India", they propose to give preference to Indian steamship companies for the carriage of mails, and whether it is intended to call for tenders for the carriage of mails separately for different routes or groups of routes ?

†These questions will be answered later.

Mr. T. Ryan : The suggestion in the first part of the Honourable Member's question will receive due consideration. The answer to the second part is that it is proposed to call for tenders separately for different routes as well as for group of routes, so as to obtain the best possible terms.

PARTICIPATION OF INDIAN SHIPPING IN THE COASTAL AND OVERSEAS TRADE OF INDIA.

1035. ***Mr. K. C. Neogy :** (a) Will Government be pleased to state if they have received any representation on behalf of the conference of the small Indian steamship companies as well as from the Indian Merchants' Chamber, Bombay, intimating to them that an unfair rate-war was being carried on by the British India Steam Navigation Co., Ltd., by reducing rates of freight far below the economic level which was hitting the small Indian steamship companies very hard, and that if no immediate steps were taken by Government to prevent such an unfair rate-war, the small Indian steamship companies would be wiped out of existence ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state what steps they have taken or propose to take to prevent the small Indian steamship companies from being driven out of the field, in view of the professed policy of the Government of India to provide for "an adequate participation of Indian shipping in the coastal and overseas trade of India" ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) The Government of India have received the representations referred to.

(b) The matter is receiving the attention of the Government of India.

SECURING EMPLOYMENTS FOR THE CADETS OF THE TRAINING SHIP "DUFFERIN".

1036. ***Mr. K. C. Neogy :** (a) Will Government be pleased to state if it is not a fact that the Governing Body of I.M.M.T.S. *Dufferin* have, after careful and prolonged consideration come, to the conclusion that the prospects of employment as officers for the present number of cadets taken by the training ship were uncertain after they obtain their certificates of competency ?

(b) If the answer to part (a) be in the affirmative, is it a fact that Government stated as follows in the Prospectus of the I.M.M. Training Ship *Dufferin*, namely :

"The Government of India consider that apprentices who give satisfaction should be able to obtain employment" ?

(c) If so, will Government be pleased to state if they propose to legislate on the lines recommended in the report of the Indian Mercantile Marine Committee for securing employment for the cadets of the Training Ship *Dufferin* who have obtained certificates of competency at least on ships plying in the coastal waters of India ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) and (b). Yes.

(c) The position in regard to the prospects of employment of *ex-Dufferin* cadets is being closely watched by Government. In their opinion the uncertainty of the position arises largely from the present abnormal depression in shipping. They do not consider that the need for giving effect to the recommendation of the Indian Mercantile Marine Committee referred to by the Honourable Member has arisen.

†1037 *—1046.*

DEATH OF MRINAL KANTI RAY CHAUDHURY, A DETENU IN THE DEOLI DETENTION CAMP.

1047. *Mr. K. C. Neogy : (a) Will Government be pleased to make necessary inquiries and state as to whether a petition signed by seventy-two detenus in the Presidency Jail, Calcutta, and dated June 11, 1932, was addressed to His Excellency the Governor of Bengal, in which the accuracy of facts stated in the Government communiqué regarding the death of detenu Mrinal Kanti Ray Chaudhury at Deoli was questioned, and a detailed account was given of the serious state of health of the said detenu while in Bengal ?

(b) Will Government be pleased to state whether any notice was taken of the said petition by any responsible official ; and, if so, by whom and with what result ?

(c) Will Government be pleased to lay a copy of the said petition on the table ?

(d) Is it a fact that one of the said seventy-two detenus addressed a telegram to His Excellency the Viceroy on the 14th June last, to the following effect :

“Already petitioned His Excellency Governor of Bengal. Your Excellency’s personal attention solicited to discover truth about alleged suicide of Mrinal Kanti Roy, late detenu, Deoli jail....” ?

If the answer to this be in the affirmative, what action was taken on this telegram ?

(e) When did the detenu Mrinal Kanti Ray Chaudhury arrive at Deoli and on which date was he kept in separate confinement ?

(f) What was the state of his health when he arrived at Deoli ? Will Government be pleased to lay on the table any records of any medical examination of him at Deoli prior to his death ?

The Honourable Mr. H. G. Haig : (a), (b) and (c). I have no information.

(d) No.

(e) and (f). The Honourable Member is referred to the finding of the Magistrate, a copy of which was laid on the table of the House.

ASSOCIATION OF FEMALE CIVIL DISOBEDIENCE PRISONERS IN JAIL WITH PROSTITUTES, ETC.

1048. *Mr. K. C. Neogy : (a) Are Government aware that there have been complaints in different Provinces that female civil disobedience prisoners are associated in jail with prostitutes and other women convicted of heinous crimes ?

†These questions will be answered later.

(b) Has the attention of Government been drawn to the following observations made in a report of the committee appointed by the Social Service League, Bòmbay, for investigating complaints of released prisoners :

“ Female political prisoners have bitterly complained of being associated with prostitutes and murderesses. This association appears to have been deliberately forced upon them ”?

The Honourable Mr. H. G. Haig : (a) and (b). I have made enquiries from Local Governments, and will furnish a reply in due course.

CLASSIFICATION OF CIVIL DISOBEDIENCE PRISONERS.

1049. ***Mr. K. C. Neogy :** Are Government aware that near relations, such as brothers or father and son, have been placed in different classes as civil disobedience prisoners, in different provinces, and that there is no uniformity of policy followed by the different Provinces in the matter of classification ?

The Honourable Mr. H. G. Haig : I do not think, even if the Honourable Member's statement is correct, as to which I have no information, that there is necessarily any justification for the suggestion that the classification rules are not being properly applied. Classification in each case is a matter for decision by the Courts in the first instance and, as stated by me on the 7th September, 1932, in reply to supplementary questions on Mr. Lalchand Navalrai's starred question No. 108, the replies received to a recent reference to Local Governments in this matter indicate that there is no misapprehension about the general principles.

†1050 *—1085.*

INTRODUCTION OF SECOND CLASS RAIL MOTORS ON THE KALKA SIMLA RAILWAY.

1086. ***Mr. S. C. Mitra :** Are Government aware that most of the second class passengers travel from Simla to Kalka and *vice versa* by road motors in the absence of second class rail motors ? If not, do they propose to inquire into the matter ? If they are aware, will they be pleased to state what steps, if any, have been taken to introduce second class rail motors for such passengers ? If no steps have yet been taken in the matter, do they propose to do it now ? If not, why not ?

Mr. P. R. Rau : Government are aware that many persons prefer to travel by road rather than by railway between Simla and Kalka. I am asking the North Western Railway Administration to examine the Honourable Member's suggestion to run rail motors for second class passengers.

APPOINTMENT OF SIR DAVID PETRIE AS CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

1087. ***Mr. S. C. Mitra :** (a) Will Government please state on what grounds Sir David Petrie has been appointed as the Chairman of the Public Service Commission ?

†These questions will be answered later.

(b) Is it a fact that he is not the seniormost member of the Commission ?

(c) Will Government please state what are the educational qualifications of Sir David Petrie and other members of the Commission ?

(d) Is it a fact that he belonged to the Criminal Intelligence Bureau of the Home Department before he was appointed in the Public Service Commission ?

(e) Is it the policy of Government not to appoint any Indian as Chairman of the Public Service Commission ? If so, why ?

(f) Is it a fact that the Public Service Commission, in spite of the recommendation of the General Purposes Sub-Committee of the Retrenchment Committee, consists of four members, two of whom are Indians and two Europeans ?

The Honourable Mr. H. G. Haig : (a), (b), (d) and (e). I have already dealt with these matters in reply to questions supplementary to question No. 507.

(c) A statement is laid on the table.

(f) Yes. Government were unable to accept the recommendation of the Retrenchment Committee that the strength of the Commission should be reduced from five to three.

Statement showing the educational qualifications of the Chairman and Members of the Public Service Commission.

1. Sir David Petrie, M.A. (Aberdeen).
 2. Mr. J. C. Weir, B.A., and LL.D. (Dublin).
 3. Mr. B. P. Varma, B.A. (Allahabad), M.R.S.I., M.I.M.E.
 4. Mr. L. K. Hyder, B.A. (Allahabad), B.A. (Cambridge) Ph.D. (Heidelberg).
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CASTING VOTE OF THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

1088. ***Mr. S. C. Mitra :** Is it a fact that when opinions of Indian and European Members of the Public Service Commission are divided, the casting vote of the European Chairman is always cast in favour of the European members ? If not, will they be pleased to state the number of such cases during the last three years, where Europeans and Indians were divided and the casting vote of the Chairman had to be exercised and the number of cases where the casting vote of the Chairman was cast in favour of Indians ?

The Honourable Mr. H. G. Haig : The proceedings of the Commission are confidential, and I am not prepared to discuss the highly improper surmises of the Honourable Member.

APPOINTMENT OF THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION.

1089. ***Mr. S. C. Mitra :** Is it a fact that it was decided at the time of the creation of the Public Service Commission that service men will

not be appointed as Chairman of the Public Service Commission ? If so, will Government be pleased to state the reasons for over-riding the above decision in favour of a police officer ?

The Honourable Mr. H. G. Haig : The reply to the first part of the question is in the negative. The second part does not therefore arise.

UNSTARRED QUESTIONS AND ANSWERS.

RECRUITMENT TO CLERICAL APPOINTMENTS IN POST OFFICES.

138. **Mr. Bhuput Sing :** (a) Is it a fact that the Director General of Post Offices has ordered that recruitment to clerical appointments in post offices should be made only from among the natives of the respective revenue districts ?

(b) If the answer to part (a) is in the affirmative, will Government please state whether Lieut. Shujat Ali Saib, Superintendent of Post Offices, Salem, provided one Mr. S. Gopalakrishnan with a post of clerk in the Salem Division, even though the latter belonged to Valavanur, a place in the South Arcot revenue district ?

Mr. T. Ryan : (a) Yes, in 1926. But the present position is as stated in the reply to Khan Bahadur Sarfaraz Hussain Khan's unstarred question No. 29 in this House on the 14th July, 1930.

(b) Government have no information. The matter is within the competence of the Postmaster General, Madras, to whom a copy of the question is being sent.

CLAIMING OF THE RAILWAY FARE AT HIGHER RATES BY THE INSPECTOR OF POST OFFICES, DHARAMPURI.

139. **Mr. Bhuput Sing :** (a) Has the Director General of Post Offices directed during December, 1930, that his subordinate officers of the department should, for their journeys on duty, claim, when travelling by railway, fares for the class by which they actually travel and that it would constitute a fraud to claim fares of a higher class after actually travelling by a lower class ?

(b) If the answer to part (a) is in the affirmative, will Government please state whether, during the year 1931, the Inspector of Post Offices, Dharampuri, in the Salem Postal Division, was not habitually travelling in the third class and claiming railway fares at first or second class rates ?

(c) Has this act of the inspector been brought to the notice of the Postmaster General and, if so, what action was taken in the matter ?

(d) What disciplinary action do Government propose to take to check such acts on the part of officers ?

Mr. T. Ryan : (a) No.

(b), (c) and (d). Do not arise ; but a copy of the Honourable Member's question is being sent to the Postmaster General for enquiry.

NON-ADMISSION OF INDIAN OFFICERS TO THE PRINCE OF WALES SEAMEN'S INSTITUTE.

140. **Mr. K. C. Neogy :** (a) Will Government be pleased to state if they have received any letter from the Indian National Steamship Owners' Association in connection with the non-admission of Indian officers to the Prince of Wales Seamen's Institute and if so, will Government be pleased to state if any reply has been sent to that letter and, if so, the nature of the reply given ?

(b) Are Government aware that the institute was established out of public subscriptions, and that large contributions were made by Indians to its funds ?

(c) Does this institute receive any financial assistance from Government ? If so, to what extent and on what conditions ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) Yes, a letter has been received from the Indian National Steamship Owners' Association on the subject and is still under consideration.

(b) Government are aware that the building was raised from public subscriptions but have no information as to the exact amount subscribed by Indians.

(c) The Institute receives grants-in-aid from the Customs Department out of the Sunday Fees Fund. The amount paid last year was Rs. 2,390 and the amount sanctioned this year is Rs. 2,400. No express condition is laid down but the grants are made on the understanding that the work of the Institute is conducted on the same lines as in the past.

CARRIAGE OF GOVERNMENT AND RAILWAY MATERIALS BY INDIAN SHIPPING COMPANIES.

141. **Mr. K. C. Neogy :** (a) Will Government be pleased to state the quantity of Government and Railway materials carried during the last two years from any ports to India and the names of the steamship companies by which the said materials were carried giving separately the tonnage carried by each company ?

(b) Will Government be pleased to state, in view of the following resolution passed by the Council of State on the 15th March 1922, and accepted by the Government of India :

“ This Council recommends to the Governor General in Council to issue instructions in the departments concerned to give Indian Shipping Companies an opportunity of quoting for the carriage of Government and Railway materials from any ports to India and to give them preference if their quotation is approximate to that of other Companies.”

if any preference for the carriage of Government and Railway materials referred to in part (a) above, was given to Indian shipping companies and if so, the extent to which such preference was given and the quantity of cargo carried by such companies in pursuance of such preference ?

Mr. A. G. Clow : (a) The stores shipped by the India Store Department, London, from European and American ports to India amounted in 1930-31 to 106,865 tons. The total for 1931-32 is not yet available and

the Government of India have no particulars of the distribution of the tonnage among the shipping companies engaged in this trade.

(b) The answer is in the negative.

CARRIAGE OF GOVERNMENT AND RAILWAY MATERIALS BY INDIAN SHIPPING COMPANIES.

142. **Mr. K. C. Neogy :** (a) Will Government be pleased to state if the Burma Railways recently invited the rates of freight for the carriage of scrap rails from Rangoon to Calcutta not by open tender but by verbal negotiations ?

(b) Will Government be pleased to state whether the Burma Railway, actually carried on negotiations with the British India Steam Navigation Company, Limited, intimating to them that a certain rate of freight only would be suitable for the carriage of such scrap rails from Rangoon to Calcutta, and no such negotiations were carried on with the Scindia Steam Navigation Company, Limited, whom they had also asked to quote for the carriage of such scrap rails ?

(c) Will Government be pleased to state if it is not a fact that while the British India Steam Navigation Company, Limited, as a result of negotiations with the Burma Railways, quoted Rs. 7 per ton for the carriage of scrap rails from Rangoon to Calcutta, the Scindia Steam Navigation Company, Limited, quoted Rs. 6 per ton for the carriage of such scrap rails from Rangoon to Calcutta and wired to the Honourable the Commerce Member and the Railway Board accordingly on the 8th August, 1932 ?

(d) Will Government be pleased to state if it is not a fact that in spite of the lower rate quoted by the Scindia Steam Navigation Company, Limited, the Burma Railways accepted the rate of the British India Steam Navigation Company, Limited, and actually booked space with them for the carriage of 2,000 tons 41½ lbs. of scrap rails from Rangoon to Calcutta ?

(e) If the answer to part (d) be in the affirmative, will Government be pleased to state if such action on the part of the Burma Railways is in consonance with the resolution passed by the Council of State on the 15th March, 1922, and accepted by Government, whereby departments concerned were to give Indian shipping companies preference for the carriage of Government and Railway materials if their quotation was approximate to that of other companies ?

Mr. P. R. Rau : I have called for particulars of the case from the Agent, Burma Railways, and, on receipt, will lay a reply on the table.

CARRIAGE OF GOVERNMENT AND RAILWAY MATERIALS BY INDIAN SHIPPING COMPANIES.

143. **Mr. K. C. Neogy :** (a) Will Government be pleased to state if the Railway Board wrote to the Scindia Steam Navigation Company, Limited, on the 15th August, 1932, intimating to them that the freight rate of Rs. 7 per ton for the carriage of old rails from Rangoon to Calcutta belonging to the Burma Railways was accepted by the Agent, Burma Railways ? Is it a fact that both the Agent, Burma Railways and the

Railway Board, had then before them the lower quotation of the Scindia Steam Navigation Company, Limited, of Rs. 6 per ton for the carriage of such rails ?

(b) Is it not a fact that the Scindia Steam Navigation Company, Limited, in their letter to the Secretary, Railway Board, dated the 27th August, 1932, stated that Messrs. Mackinnon Mackenzie advised them (the Scindia Company) on the 22nd August, 1932, that the Burma Railways had booked no cargo so far ? How do Government reconcile this statement with the statement in the letter of the Deputy Director, Railway Board, to the Scindia Company, dated the 15th August, 1932, that the freight rate of Rs. 7 per ton for old rails of the Burma Railways for shipment from Rangoon to Calcutta had been accepted by the Agent, Burma Railways ?

(c) If the answer to part (a) be in the affirmative, will Government be pleased to state if this action of the Agent, Burma Railways and of the Railway Board is in consonance with the resolution passed by the Council of State on the 15th March, 1922, and accepted by Government ?

Mr. P. R. Rau : I have called for particulars of the case from the Agent, Burma Railways, and, on receipt, will lay a reply on the table.

BILL PASSED BY THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Secretary of the Council of State :

“ I am directed to inform you that the Council of State has, at its meeting held on the 27th September, 1932, agreed without any amendment to the Bill further to amend the Code of Criminal Procedure, 1898, for a certain purpose, which was passed by the Legislative Assembly at its meeting held on the 21st September, 1932 ”.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Further consideration of the following motion moved by the Honourable Mr H. G. Haig on the 21st September, 1932 :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, Mr. C. W. Gwynne and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, in moving his motion the other day, the Honourable the Home Member referred to a debate that took place in this House on the 1st February, 1932, in the course of which he quoted me as saying that I, on behalf of the non-official Benches, had asked the Government to bring before the Legislature the Ordinances for its consideration and that, though belated, he admitted, with a blush, he is doing it now. Sir, that reminds me of a story of a gentleman whose wife ran away and the husband wrote to her and said : “ Darling, come back ”. After two or three years, she came back, and said : “ Darling, I have come back ”, and she presented

him two kids. What my Honourable friend has done here now, is, he has come back and presented five kids.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What is the interval here ?

Sir Hari Singh Gour : In the course of less than one year. For, if Honourable Members will look at the Preamble to the Bill, they will find that by one fell swoop, the Honourable the Home Member wishes to reform, amend and repeal parts or whole of no less than five substantive laws including the one which, after mature consideration and full discussion, was enacted in this House only last year, namely, the Press Emergency Act. I should have expected, Sir, that the Honourable the Home Member would have profited by the discussion that took place in this House on that day. I myself then pointed out as to how far several other provisions of these Ordinances had transgressed the fundamental laws to which I referred. If Honourable Members will read what I said at page 213 of the Assembly Debates of the 1st February, 1932, they will find that I devoted a considerable portion of my argument to showing that there were several provisions in the Ordinances that were repugnant to the common law of England, and would, therefore, be repugnant to the provisions of the Indian Constitution Act, section 65, which places the limitation upon the power of the Legislature that it shall not enact any law which affects in any degree the allegiance of any person to the Crown of the United Kingdom. Sir, what the Honourable the Home Member has done is merely to use paste and a pair of scissors and cut out all the Ordinances, if I may be permitted to say so, some of its ugly and obnoxious provisions and paste them on a piece of paper and he says : " Here, you are, you wanted me to bring them before the House. Here, I have brought them now before you, enact them ". The Honourable the Home Member will probably recall that this is not the first occasion when portions of the Ordinances had been brought before this House for its concurrence. Honourable Members will remember the provisions of the Foreign Relations Bill and the Press Bill, and if they will see the Bills, as they came before this House and as they were finally enacted by it, they will hardly realise that the Bills that they had passed bore no shape or form of identity to the Bills as they were introduced. I am afraid that the Honourable the Home Member will find that this Bill, if it ever goes to the Select Committee and emerges from it in the shape in which it would be acceptable to this House, would equally lose its identity in the wholesale revision to which it would be subjected by that body. The Honourable the Home Member makes no secret of the fact that his object in enacting this measure was to cope with three-fold movements that are at the present moment disturbing the peace of the country. He said, we have the civil disobedience movement, we have the communistic movement, and, last of all, we have the terrorist movement, and that the combined effect of the consolidated measure, which he wants this House to enact, is to cope with these three-fold movements. Now, Honourable Members will at once ask themselves one question. Take for example, first of all, the civil disobedience movement. This movement was started for the purpose of bringing pressure to bear upon the executive Government of this country and in England to give this country self-government, a self-government which will make the nationals of this country self-respecting, not only within their own borders, but also abroad.

[Sir Hari Singh Gour.]

Now, I am not one of those who consider that repression or repressive laws will, in the slightest degree, cope with the mischief with which the Government of India are, at the present moment, confronted. I pass before my eyes the history of revolutionary movements in all countries of the West and, last of all, of the neighbouring island of Ireland and I feel, Sir, that if history repeats itself, conciliation and not repression is the cure for this civil commotion that is at the present moment engaging the attention of a very large section of the people in this country. The Honourable the Home Member will reply : " We are dealing with both aspects of the question. While we are engaged in considering the best means of establishing a peaceful and progressive constitution for this country, we, as the Government of India, have our duty to see that law and order is respected during the interim that we are in power ". That is a perfectly just and legitimate wish ; but are you sure that you are not over-legislating for this evil which, at the present moment, is, as I have said, disturbing the peace of the country ? I shall very presently point out that the throwing into legislative shape of the Ordinances that have been at work for a period of 10 or 12 months will certainly not deal with that one aspect of the civil disobedience movement ; and I shall presently point out, that so far as the right of forfeiture of property is concerned, I have, as I pointed out on the last occasion, very serious doubts whether this Legislature has power to enact a measure in favour of the confiscation of private rights without a right of indemnity. That, I submit, is what I have to say on the general aspect of the civil disobedience movement.

The second evil, to which the Honourable the Home Member referred, was the growing strength of communism in this country. Now, I do not think any Honourable Member of this House has got even a lurking sympathy for blatant communism, but, at the same time, I think there is no Member of this House who would arm the Government with plenary powers which, while checking the growth of communism in this country, will be a serious menace to the life, liberty and property of peaceful citizens. You have to hold the balance between the checking of lawlessness and revolutionary spirit and the protection of rights of person and property of the vast bulk of the people who are anxious to be peaceful and law-abiding and who, at any rate, would not furnish fresh recruits to these unlawful associations, by the very reason that your drastic and, may I say, Draconian laws will immediately recoil upon the sympathies of the people who otherwise would be for the preservation of law and order in this country.

Thirdly, we come to the terrorist movement. We have already expressed our views upon the lamentable recrudescence of the terrorist movement in this country. Honourable Members know the history of the movement which is about 30 years old. I do not wish to dilate upon its cause, but I do say that while this House will be at your back in suppressing the terrorist movement it would not be at your back if, under the guise of suppressing the terrorist movement, the effect of your legislation is to terrorise the people.

That, Sir, is what I have got to say with reference to the objective which the Honourable the Home Member says he had in introducing this

piece of legislation. It has been asked that if the convictions under the Ordinances are illegal, how is it that nobody has gone to the High Court for the purpose of questioning their legality. If the Honourable the Home Member will turn to the provisions of the Ordinances, now sought to be perpetuated in the Bill, he will find that he has added a clause to the effect that nothing therein contained shall give the civil or criminal Court any jurisdiction to question the legality of anything purported to be contained in those Ordinances. And further, Honourable Members will observe that it is the policy of the people engaged in the civil disobedience movement to fill the jails and they have professed as possessing no confidence in the law Courts. But whether they have or have not, and whatever may be the view of the Courts, we, as legislators, guided by what is the precedent and principle underlying the policy of British legislation and the Parliamentary Act which guides and controls the powers of this Legislature, have also to use our discretion and our judgment when we place upon the Statute-book a law which would deprive the subject of the ordinary remedy he possesses of safeguarding his rights in the usual way through the instrumentality of the Courts. And that fact must not be ignored when we are going to place our imprimatur upon an Act which shall be the Act of our own making.

Now, Sir, if we have in view these facts, facts to which I have adverted, we shall have no difficulty in commenting upon the piece of legislation on which we are called upon to give our verdict. Honourable Members, who have preceded me, have gone into the details of the various clauses of this Bill and criticised them. I do not propose to follow in their wake, because I think that we can easily sub-divide all these clauses into four main heads and, if we can attack these four main heads and understand each one of them, we shall probably have given a useful lead to those upon whom shall be cast the duty of revising this measure. In the first place, Honourable Members will find that this composite Bill seeks with one fell stroke to amend five Acts of the Indian Legislature. Now, Sir, Honourable Members are aware that these five Acts of the Indian Legislature, which are sought to be amended, are, with the exception of the Code of Criminal Procedure, independent of one another, and, while I concede that, while you are amending the Penal Code, you will be justified in amending, at the same time, the processual law dealing with those offences. I cannot bring myself to realise the necessity of having five Bills in one, because it would give this House no clear idea as to what each Bill is intended to subserve. Let me give each one of them in its turn. First of all, and the most important of them all, is the amendment of the Indian Penal Code. Honourable Members will find that a very large number of sections—140A, 164A, 164B, 188A and 507A—are sought to be added to the provisions of the Indian Penal Code. Now, I ask the Honourable the Home Member one question : from the very start by your own confession this is an emergency piece of legislation intended to deal with the recrudescence of three political evils to which you have adverted. Therefore, your action must be primarily preventive and not punitive. The fundamental and primary object of the Indian Penal Code is punitive and not preventive ; the primary object of the Indian Penal Code is to punish people for offences committed and the one underlying principle of the Indian Penal Code is that nothing is an offence unless it is accompanied by, what lawyers call, the *mens rea*, that is, the guilty mind, criminal intention, criminal knowledge. That being

[Sir Hari Singh Gour.]

the fundamental principle of our standing criminal jurisprudence, have you got that principle in any of the sections which you wish now to add to the penal armoury of the country? You have not. You read your sections and you will find that they are what an English lawyer would call not *mala per se* but *mala qua prohibita*; they are not offences, because they carry with them a certain criminality, but they are offences because for the purposes of *populus salus* you want that the members of the public shall conduct themselves in a certain fashion. Consequently, they cannot possibly fall within the category of penal laws to be added to the criminal law of the country. That, I submit, is one reason for objecting to the motion which the Honourable the Home Member has asked this House to endorse. But my more serious objection to it is this: that not only do you propose to create a new jurisprudence, you are prescribing a new procedure, you are creating a new jurisdiction and you are adding a new punishment. All these four things which are foreign to the fundamental principle of established criminal jurisprudence of this country as regards the offences, my friend, Mr. Puri, has passed in review, and I endorse every word of his when he points out how large and sweeping were the terms in which your offences were described, and I have no doubt that Honourable Members, by looking at random to any of the sections, will immediately find that the criticism that has been made against the definition of these offences is abundantly justified. The second point and the third and fourth seem to have escaped the notice of most critics of this Bill. The second point that I wish to draw the attention of the House to is that you have prescribed a new procedure; that new procedure is...

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair does not want to interrupt the Honourable Member; but ever since he started to speak, he is addressing Government Benches and not the Chair. Will he please address the Chair?

Sir Hari Singh Gour : I apologise, Sir. I did not know. I was always addressing the Chair and I was speaking through you to the House. The second point I wish to draw the attention of the House to, is that the new procedure, which has been prescribed, makes at one fell stroke a clean sweep of the existing procedure. My friends, who do not follow the profession of law, will understand that the principle of the Indian Penal Code is that all offences are classified according to the degree and gravity of their crime into cognisable, that is to say, where the police may arrest without the warrant of a magistrate, and non-bailable, that is to say, where the accused is sent to jail without the option of giving security for his release on bail, and what is known as summons cases and bailable cases. Now a very large number of cases which were bailable have been made non-bailable. These offences are all contained in clause 12 of the Bill. I need not detain the House by reading through that clause. But Honourable Members will find that no less than ten offences, which were bailable, have been made cognisable, that is to say, where the accused is liable to be arrested by the police and non-bailable, that is, where the police may lock him up on their own authority. I submit, that is a startling departure from the existing procedure and I should like to have an explanation as to why the Government are altering the existing procedure dealing with ten offences which are not added to by the proposed Bill, but which are

part of the *corpus juris* of the existing Statute. Then, with regard to the new procedure dealing with the special offences in the Bill, the general provision is that the police have been given a free hand ; but if that were all, it would be a very serious encroachment upon the rights and liberties of the people. But that is not all. The offences, every one of them proposed to be enacted by the new measure, are triable by any magistrate. Now, this is a most startling procedure,—that offences which require a certain mentality, offences of a highly technical character requiring weighty judgment, offences which furnish no precedents and created for the first time by this Bill, are to be tried by a magistrate of the third class or second class, which seems to be a most startling departure from the existing procedure. And what would be the result ? A District Magistrate is the head of the district police and the custodian of peace and order in the district. As it is, he is also the criminal appellate authority over the decisions of second and third class magistrates. Therefore, if these cases are sent up by the police to a second class magistrate and he imprisons a man for six months, the appeal would lie to the District Magistrate who is the head of the district police, and, as such, he finally disposes of the appeal, and there is an end to such judicial redress as this Bill gives to the aggrieved party. No doubt, there is a right of revision, but most of the High Courts have now laid down that, except on a point of law, they are not free to interfere with a finding of fact, so that it seems to me that this is a startling innovation in the matter of procedure and jurisdiction.

Now, I come to the last point, and that is about the forfeiture of property of all persons who may be suspected of being privy to aiding or abetting the civil disobedience movement. I wish to ask Honourable Members to recall the words of the Honourable Mr. Gwynne only the other day in connection with the motion that was made by the Honourable Pandit Sen asking this House by a Resolution to add the punishment of forfeiture to the existing punishment in the case of abduction, and the Honourable Mr. Gwynne, replying on behalf of Government, did me the honour of citing a few passages from my book in which he pointed out that the Indian Legislature had repealed the punishment of forfeiture from the Statute-book. Sir, the history of this forfeiture is a long one, and I do not wish to tire the House by giving it. But let me say to this House that in the first Assembly almost one of the first acts of that Assembly was to write off the Statute the punishment of forfeiture which visited not only on the guilty but also upon the innocent relations of the guilty man, and, as such, being repugnant to the modern notions of punishment, it concurred in repealing it, as no longer in consonance with the principles of modern criminal jurisprudence. Having said that, I find now to-day a resurrection of this dead and buried provision regarding punishment in this Bill. What justification is there for it ? I quite understand, the Honourable the Home Member would say that the ramifications of the civil disobedience movement are widespread, and, therefore, they must lay by their heels not only those who are taking part in the civil disobedience movement, but also those who feed and nourish it by giving it material support. Sir, let me ask the Honourable the Home Member that while the fire is being fed from below, a few buckets of water thrown upon it from the top would not extinguish the growing conflagration. On the other hand, the result of this would be that people, whose property has been confiscated, without indemnity or without recourse to the law, would

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become recruits to the ranks of the civil disobedience movement. And what is more and what is worse, revolution, as we all know, is the result of a revolutionary mind, of a revolutionary psychology. You may kill and destroy the recrudescence of lawlessness ; but far more dangerous, far more destructive is the onrush of the revolutionary spirit, and you will be encouraging that spirit and making it widespread by making people feel that their property has been confiscated and that they have no redress against the action of the executive. Can this House, at any rate I am speaking on behalf of the popular section of this House, can I expect one solitary Member on the popular Benches supporting such a reactionary proposal ? Pause and consider ; think of its unconstitutionality, think of its far-reaching effect, think of what it would lead to, and you will have your answer.

Sir, to one interjection of my friend, Mr. Neogy, the Honourable the Home Member had vouchsafed the reply that he had consulted the officers of the Crown, and their opinion was favourable in regard to the second object. The question I had raised and which this House had raised was, that you have section 72 of the Government of India Act which lays down that the Governor General may, in cases of emergency, make Ordinances. Now, there must be for the making of an Ordinance one emergency, a fresh case of emergency ; no fresh emergency, no fresh Ordinance. Did the Honourable the Home Member refer to the Law Officers of the Crown the question whether it is competent of the Government of India to make Ordinances after Ordinances to deal with a single case ? That is the whole question. Your emergency is one continuing emergency

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I have already pointed out to the Honourable Member that he must address the Chair.

Sir Hari Singh Gour : This is the impersonal "you", I submit. I do not want to offend anybody's susceptibilities, but I thought it was the Parliamentary method of expression. My submission is that here we are not concerned with emergencies and fresh emergencies, but we are concerned with one single continuing emergency, and the question is whether it is competent of the Government of India to issue a consolidated Ordinance to extend the operation of the original Ordinances to deal with exactly the same emergency treating it as a fresh Ordinance dealing with a fresh emergency. That is the question and the Honourable the Home Member need not require the advice of the Law Officers of the Crown to give an answer to such a simple proposition which is clearly provided for in the Statute law. That is my submission. With regard to what the Honourable the Home Member may have been guided by, namely, the opinion of the Law Officers of the Crown, whatever that may have been, we are sitting here as a Legislature and it is our duty to see not merely that our enactment is legal, but that it is just, and it is from that aspect of the question that I am addressing this Honourable House. I cannot bring myself to accept the provisions of this Bill and though I am aware that at the present moment we are merely concerned with the main principle of the Bill, let us for a moment advert to what is the main principle of this Bill. If the main principle of this Bill be to modify the Indian Penal Code, our answer is clear and decisive. We are not in favour of it. If the

object of this Bill be to change the Criminal Procedure Code, our answer is equally clear and decisive that so far as the processual sections dealing with the main offences, which you have now added or propose to add to your penal law, is concerned, we are not in favour of it. The next point is this. Does this House approve of some legislation of a transitory character limited in its scope and making due safeguards to deal with a case of emergency that undoubtedly exists? My Honourable friend, the Home Member, would say that that is exactly what we are providing against, and if they are to be provided against, such a case of transitory emergency cannot be met by altering the *corpus juris* of the country. I have already pointed out the objections that exist to the change of substantive and adjectival law on this score.

One more word and I have done. I shall now refer to the Press Act of 1931. This House would be stultifying itself if, after long and careful deliberation in enacting the measure of 1931 and overriding those identical provisions culled from the Ordinance which have found a place in the Bill when it went to the Select Committee, it were to consent to the re-insertion of the rejected provisions of that Bill. Need I remind the House, how anxiously this House has considered the provisions of the Press Emergency law which we enacted last year. Those who sat in the Select Committee will remember that that emergency law was the outcome of a compromise between the Government and the other members of the Select Committee. Those who will read the discussions in the open House will require no further reminder that this House has given the Government power, exceptional power, to regulate and control the Press and the Government have not come forward, nor indeed have they stated it in the Statement of Objects and Reasons, nor has the Honourable the Home Member in the course of his speech even alluded to the fact that the Act of 1931 was put to the test and has been found in any degree wanting. I, therefore, submit that this House cannot, within 12 months, reinforce the penal provisions by restoring those very provisions which they had cut out last year, unless fresh experience has been gained and new reasons are given for the purpose of justifying such an extraordinary course. I have always looked upon the freedom of the press as one of those civic rights to which every free citizen and every free country attaches the greatest importance. A country, without a free press, is like a street without lights or a room without windows. The press serves the purpose of focussing and disseminating public views by guiding public opinion, and indeed it is the watchdog of the people against the actions of the executive Government. A free press has been the subject of defence for centuries. Did not John Milton, a great poet of my friend's own country, write that celebrated book, "Areopagitika", in defence of the press? He was nurtured in a free atmosphere, enjoying that freedom for which we are all anxious. He must have some sympathy, at any rate, with the desire on this part of the House that so far as the press is concerned, you shall not muzzle it in the manner in which it is sought to be muzzled under the proposed enactment.

Before I close, I wish to refer to the very large number of motions of which notice has been given by Honourable Members for the circulation of this Bill. Honourable Members will find that the present Bill is nothing but a re-enactment of the Ordinance which had been in force for the last nearly 10 or 11 months and, if Honourable Members will examine carefully every one of the sections contained in this Bill, they will find that it deals

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with an actual case, either boycott or picketing of liquor shops, and every one such act occurring or likely to occur against which the measure provides. If the Bill is sent out for the purpose of eliciting public opinion thereon, I think it would require no prophet to inform this House that, so far as the popular side of the country is concerned, the opinions would be strongly against the Bill. So far, of course, as the Local Governments are concerned, their opinions would be equally in favour of the Bill. Sir, the executive naturally do not wish that their unfettered powers should be in any way controlled either by the judiciary or by the Legislature. We know very well, then, as to what such opinions would be. In giving notices of their dilatory motions, Honourable Members were inspired by a feeling that the adoption of such Fabian tactics might at least lead to a reconsideration of the whole question on the part of the Honourable the Home Member. Sir, I have too high an opinion of the Home Member to think for one moment that he requires any pressure from the outside public to bring him to a reasonable frame of mind. I know in what high esteem the Honourable the Home Member is held on this side of the House and the fairness and impartiality with which he meets the just criticisms by the popular Members of this House (Hear, hear), as was apparent on the last two or three occasions when controversial measures were sent to the Select Committee and returned to this House, and I feel the assurance that he would reconsider the whole situation and look to the opinions expressed in this House and calmly and dispassionately weigh them in that judicial balance of his mind which he possesses and see whether the whole Bill does not require to be recast from beginning to end. If that be his opinion, then why not withdraw this Bill and re-draft the whole thing, and having re-drafted it, why not bring it up in the November Session,—because you have now got the accumulated opinions of the various sections of the House? One of these opinions is that they will not tolerate the implementing a permanent Statute by the addition of these sections, while, of course, they would be quite prepared to help the Government by enacting an *ad hoc* measure to serve a temporary purpose. My Honourable friend may say: “We desire to hand over to the new Government an oiled and well-lubricated machinery of Government”. Well, Sir, this oiled and well-lubricated machinery of Government will be thrown into the scrap heap if there is not a really reasonable measure of responsibility in the Centre. The new Government will look at the question from a new angle, and they will decide for themselves as to how to cope with the evils by which the country and its Government will be confronted. “Enough unto the day is the evil thereof.” Decide for yourself and for the transitory period only, before the advent of the new Government, upon such measures as you consider necessary for the purpose for the preservation of law and order; but beyond that, let not your ambition go. (Hear, hear.) If you do that, you will perhaps find that a very large section of opinion will be ready to help you.....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order. order.

Sir Hari Singh Gour : I mean to help the Government. I wish, therefore, Sir, to appeal to the Honourable occupants of the Treasury Benches to adopt the only course that seems to be reasonable, in view of the numerous weighty objections to which the Bill under reference is open.

Sir, with these remarks, I would ask the Honourable the Home Member once more to take a long view and see how far he is prepared to meet the very serious objections to which this Bill is exposed. (Applause.)

Mr. H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Mr. President, we have before us a measure thoroughly unsound in principle, but introduced in a speech admirable in its tone and temper. It sometimes happens that one cannot honestly congratulate a bride-groom upon a bride, but one is able none the less to congratulate him upon the way in which he has gone through the ceremony. In like manner, while I cannot compliment the Honourable the Home Member upon the Bill that he has sponsored, I can honestly compliment him upon the way in which he has presented his case to the House.

I am against this Bill, because it seeks to establish the principle that for the purpose of meeting an abnormal situation, it is necessary to embody abnormal provisions in the ordinary law of the land. Holding as I do that opinion, I do not propose to discuss a single detail of the measure. I propose to apply myself very generally to the main purpose of the Bill. It is possible that some of my Honourable friends may find my remarks too general in character, but in view of the fact that my Honourable friend, Mr. Puri, dissected every clause of this measure, limb by limb, and artery by artery (Hear, hear), and there are probably 50 other Members of this House who are anxious to perform similar operations, and, in view, again, as I have said, of the fact that my whole objection is against the principle of this measure, I shall not be tempted into discussing a single provision.

If I may begin my observations by stressing the obvious and the elementary, I would say that there is nothing like absolute liberty anywhere in this world. The liberty of the individual is always conditioned by the state of the society in which he lives ; and, paradoxically enough, the greater the measure of civilisation that he enjoys, the greater the restrictions put upon his liberty. There is a very wide range of restrictions covering almost every human act and omission. Not only, Sir, may I not steal, or lay violent hands on another, or pinch my neighbour's wife (Laughter), but I may not also drink when I like, or read what I want to, or even attempt to take my own life. These restrictions upon the liberty of the individual have got greatly to be enlarged in the interests of society in general in times of emergency. One ordinary and most familiar instance is when, during times of civil disturbance, the arm of the law requires to be lengthened, and the curfew order is promulgated. Not only does the individual accept the necessity of such measures, but

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in the case I have mentioned, he often actually demands it in the interests of himself and of society in general. That really is the principle of the Ordinances under which we live. They were designed to meet a special emergency, and were also, I hope, designed to be limited in their duration. Now, Sir, it would be idle to pretend that these Ordinances have met with the acceptance of people even outside the ranks of those who are associated with the civil disobedience movement or who have any sympathy with it. There is a large body of opinion which has regarded these Ordinances as having gone far beyond the necessities of the case, and as having been administered in a manner which cannot possibly meet with the approval of even the most law-abiding citizens. But, Sir, it is equally true that there is a large body of opinion which has regarded

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during these two or three years of unrest and disorder that some special measure was necessary for the purpose of meeting the emergency with which Government were faced. That, I repeat, is the justification in principle of the Ordinances which have been imposed upon the country. That principle is now sought to be extended, and the Government seek to incorporate most of the provisions of these Ordinances in the Statute-book. I say that such an extension of the principle is utterly wrong. What, then, is to be done ? The remedy is obvious. If Government feel that these special powers are necessary—I am not going to discuss the necessity here to-day.—let them carry on as they have carried on. They imposed these Ordinances without consulting public opinion. They have gone on with these Ordinances for two years and more. Let them continue with these until the movement against which they were designed has been suppressed. I shall again emphasise that I am not here to say one way or the other as to how far the emergency still exists, and how far the whole range of armoury of Government still requires to be kept intact. All that I say is that if a state of affairs continues which, Government, in their wisdom, believe, justifies the continuation of the Ordinances, let them carry on with the Ordinances. They will say : We are coming to the Legislature for the purpose of carrying public opinion with us, for the purpose of giving the representatives of the people an opportunity of expressing their opinion, and the Legislature shirks its responsibility and turns down the very request that some Members of the Legislature have during the last couple of years voiced on the floor of the House. My reply is that if that is the position of Government, they should have come forward with a measure strictly limited in duration, and especially designed to meet whatever emergency still exists. Government might use another argument and say : Why should any one object to the embodiment of these provisions even in the ordinary law of the land, since whatever the construction put upon them, they affect only the disturbers of the public peace ? I say that such an argument is entirely idle and untenable in view of our experiences during the last few years. Laws are enacted by human machinery and they are administered by human machinery ; and both their enactment and their administration are subject to the weaknesses which are inherent in the human machinery. I might remind my Honourable friends, Sir, of what took place when the Press Act was enacted in 1909. The Press Act was welcomed, at least accepted, by some of our best men on the non-official Benches of those days. It was agreed to by no less a man than the late Mr. Gokhale, than whom India has produced few greater statesmen. But Mr. Gokhale himself was constrained to recognise the imprudence of his approval in later years when the Press Act was applied in a way that went far beyond the necessities of the case. I would remind my Honourable friends of the historic judgment of one of the greatest Judges of our time, the late Sir Lawrence Jenkins, in a case which is well-known to all. Sir Lawrence Jenkins then observed that, as the Act was constituted, it was possible to bring within its purview almost any expression of opinion, however honest and however innocent. That being the case, it is impossible that we on this side of the House can accord our approval to a measure which seeks to embody in the ordinary law of the land penal provisions of this character, provisions which may be designed for special purposes, but which are capable of application to purposes widely different.

Sir, the Government are asking the Opposition to share their responsibility. I want the Government to realise the very peculiar and difficult position of the Opposition as it is constituted to-day. The Opposition has not been consulted with regard to the situation and how it should be handled. It has had no hand in the shaping of the policy which has dictated the acts of Government during the last few years. Now the Opposition are asked to give their blessings to a penal measure which seeks to suppress a movement in the handling of which Honourable Members of this House have had no lot or part. In other countries, the position of the Opposition is very different, and responsibility is readily shouldered, because of the fact that what is an Opposition to-day becomes the Government to-morrow. Here, the Opposition can only protest and criticise ; it can go on expressing its views ; but the Government remains immovable and the Opposition remains the Opposition. In spite of this, I would say we are perfectly willing to shoulder responsibility in the proper spirit, provided the Government come forward with a proper measure, namely, a measure designed for a special emergency, and limited strictly in its duration. When such a measure is brought forward, we shall be glad to appraise it on its merits.

Mr. K. Ahmed : You may move for an amendment for 10 years.

Mr. H. P. Mody : I do want to move any amendment. I object to the whole principle. I am in the same position as the fellow who was being court-martialled, and on being asked whether he objected to anything, said : " I object to the whole proceeding ".

Sir, let not my friends on the Government Benches imagine for a moment that, so far as I am concerned, my opposition to investing them with these powers arises because the Government are constituted as they are at the present moment. I would object to vesting in any Government such a wide authority. Whether it is a brown bureaucracy or a white bureaucracy, I would oppose its acquiring the powers proposed in the Bill. In any event, I would leave the future Government of the country to take the decision. The new legislatures may come into being some time during the next two years, and let us hope they will be very different in their constitution and complexion, and when those legislatures are in being and when the nominated and the official blocks do not exist in their present strength, then, I say, it will be right and proper to place the responsibility on the non-official Benches.

We have heard, Sir, a great deal in the last few years of the safeguards which the minorities require. People have been quarrelling about a seat here and a seat there, a few jobs and positions in the public services. But as my Honourable friend, Sir Muhammad Yakub, pointed out yesterday, the safeguards, which the minorities want and which it is hoped they will receive in full measure, are likely to be considerably neutralised if the Government of the future are entrusted with such wide powers. I do not question the honesty or the motives of anybody, but I say, when you vest in a majority Government an excessive power of this description, then whatever safeguards you may have devised for the minority are capable of being neutralised, to a certain extent at any rate. (Hear, hear.) These, very briefly and very generally, are my objections to the Bill. But I would like to say one word by way of suggestion as to how the present emergency could be met. It is obvious that no Government in the world

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can be carried on by means of Ordinances. Ordinances can suppress unlawful and violent movements. They cannot administer or govern the country. That is a truism which, I have every confidence, my Honourable friends on the Government Benches appreciate as well as any one of us. Therefore, Sir, what is the position? How are you going to carry on the administration of the country? Are you going to perpetually promulgate one Ordinance after another? Or are you going to bring about reconciliation?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair does not impose any Ordinances.

Mr. B. R. Puri (West Punjab : Non-Muhammadan) : So, I am not the only culprit.

Mr. H. P. Mody : I would rather wish, Sir, you had the power of imposing Ordinances, than the Members on the Government Benches opposite. We could be in a much more formidable position to argue with you than with the Government Benches. I was saying, it is impossible for Government to be carried on by means of Ordinances. There is only one way in which the situation can be met. It must have been stressed times without number during the last couple of years, but it requires to be stressed over and over again. That way is to give the responsible section in the country what it wants. It is only when Government place themselves behind the responsible section of opinion in this country, and wholeheartedly support its demand for a full measure of self-government, that we shall be able to handle this movement. (Applause.) I recognise, Sir, that there are elements in this country, very vocal, very powerful, whom Government are not going to change, no matter what they may do. These elements, at any rate, will never be pacified, and the attempt would be thoroughly useless. But, at the same time, there are elements, which, if not equally large, are really powerful whom it is necessary that Government should conciliate at the earliest opportunity. All that I wish, Sir, is that at the next Round Table Conference a scheme of reforms may be evolved which will give satisfaction, if not to those irreconcilable elements which are to-day fighting the Government, to those other elements which stand for a stable Government. It is these elements that require to be won over, and if Government succeed in doing that, they will rally a very influential section of public opinion to the standard of the Empire. In such a direction lies the security of the Government of India, and the happiness and the prosperity of the people. It may seem very obvious, but it requires saying over and over again that there is no possibility of remedying the situation unless a wholehearted attempt is made to conciliate the classes which stand in every country for order, progress and good government. (Cheers.)

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I have no desire to minimise either the genuineness or the intensity of the opposition which has been voiced in the course of this debate, but in order that we may bring to bear upon the measure before the House a proper consideration, it is necessary to know what that opposition amounts to. Sir, I am more encouraged by the degree of agreement which has been displayed in the course of the debate than embarrassed by the degree of disagreement. On most fundamental points there has been general

agreement, but on matters of detail there have been wide differences Sir, there is one thing which is certain and that is that there is a general desire on the part of the House that the motion should be carried....

Several Honourable Members : No, no.

The Honourable Sir Brojendra Mitter : If Honourable Members will please wait, I shall be able to show that there is a general desire in the House that this measure should go to Select Committee for proper consideration.

Several Honourable Members : No, no.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Of course among officials and their henchmen.

The Honourable Sir Brojendra Mitter : Honourable Members do not realise what they have committed themselves to by their speeches. Honourable Members do not seem to realise how much they agree with us.

Mr. C. S. Ranga Iyer : (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : The non-officials condemn the measure.

The Honourable Sir Brojendra Mitter : I do not know if the Honourable Member can be so sure. Honourable Members have agreed to serve on the Select Committee....

Mr. C. S. Ranga Iyer : I rise to inform the Honourable Member that though some of them have agreed to serve on the Select Committee, yet there are others who are opposed to it.

The Honourable Sir Brojendra Mitter : Honourable Members' overwrought enthusiasm is blinding them to the fact that they agreed to most things. Sir, the first thing is this. This measure, as has been pointed out by my Honourable colleague, the Home Member, in his opening speech, has been brought to combat the civil disobedience movement. It is recognised by the leading speakers on the Opposition Benches that the civil disobedience movement exists, it is not dead. It is recognised also on the Opposition Benches that it is an evil which has got to be suppressed.

Mr. Gaya Prasad Singh : Not necessarily.

The Honourable Sir Brojendra Mitter : I shall presently quote the exact words, if Honourable Members will do me the courtesy of not interrupting me. They will see that I make good every word that I say. (Hear, hear.) My Honourable friend, Mr. Reddi, recognises the existence of the civil disobedience movement and he also recognises that it is an evil, and his remedy was, these are his exact words : "remove the root cause by giving us responsibility". (Hear, hear.) My present claim is this. The evil exists and this I make out through the mouth of my Honourable friend. I shall soon come to the remedy suggested by him. According to my Honourable friend, Mr. Reddi, the evil is there and it has to be removed and it has to be removed in a particular way, that is to say, "do not treat the symptoms, but go to the root cause and you will remove the root cause by giving us responsibility". He further said that Government are not expected to

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stand with folded arms and see the spread of the civil disobedience movement.

Mr. T. N. Ramakrishna Reddi (Madras, ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, May I give a personal explanation ? I said that when the civil disobedience movement at first started, nobody would expect Government to sit with folded hands, and then I said that by issuing Ordinance after Ordinance they have put down the movement and now the movement does not exist and has been almost suppressed, and that there is no necessity for this legislation.

The Honourable Sir Brojendra Mitter : Probably the Honourable Member spoke so fast that I could not hear him well from this side. **Mr. Sadiq Hasan** said that he would like to see peace restored in this country, which implies that at the present moment there is a disturbance of the peace. **Mr. Puri** said that people were forced into the civil disobedience movement and it was the only possible weapon in the hands of a helpless people. Sir, **Mr. Puri** was dealing with the civil disobedience movement and he was justifying the existence of the movement, because that was the only weapon, according to him, open to the people of the country. My theme at the moment is this. It is admitted by opposition speakers that the civil disobedience movement exists. **Mr. Shah Nawaz**, while admitting the evil of the civil disobedience movement, said that Government were bound to protect their servants and the public. Sir, I now come to the most significant confession made by my Honourable friend, **Sir Hari Singh Gour**, the Leader of the Nationalist Party. He said this morning : " Repressive laws will not cope with the mischief that exists ; conciliation is the remedy ". Then he went to say that we are over-legislating for the evil which is disturbing the peace of the country. From these observations, Sir, it is quite clear that Honourable Members recognise that there is an evil which exists and which has to be met. Now, the question is, how that evil is to be met, on which, I admit, there is a great divergence of opinion. Various nostrums have been suggested by various speakers. Let us see what are the remedies suggested. **Mr. Reddi** suggested, give responsibility ; **Mr. Sadiq Hasan** suggested, remove unemployment ; **Mr. Puri** suggested, abandon coercion and substitute palliation and conciliation. I hope I am quoting them correctly, I am not quoting the exact words, but merely giving the substance. **Mr. Shah Nawaz's** remedy is a combination of all these three *plus* the Usurious Loans Act (Laughter) ; and **Mr. Mody's** suggestion was a good constitution acceptable to him and his party. (Laughter.) These are the various remedies which have been suggested. Everyone claims his remedy to be the sovereign remedy. We have considered all these matters and our remedy has been mentioned often and often from the highest quarters to those who have to administer the country here, that is to say, from the Secretary of State downwards. It has been said that our remedy is two-fold ; one is to get along with the reform of the constitution and, secondly, to suppress lawlessness meanwhile. That is our two-fold remedy.

Mr. B. R. Puri : Is that a two-fold remedy or a two-fold object that you have in view ? The remedy might be quite different.

The Honourable Sir Brojendra Mitter : The two-fold remedy for the restoration of peace and advancement of the country. So far as the constitution is concerned, the venue is elsewhere and we are not discussing it on the floor of this House. The other branch of it is in our hands and it is not only in our hands, but it is our duty to see to it and it is with that object that this measure has been brought forward. This measure has been brought forward with the object and in the hope that it will meet the evil which by general agreement exists and which needs to be removed. No one in this House wants the continuance of lawlessness ; no one wants the tyranny of boycott and picketing ; no one here wants a spread of the spirit of defiance of established authority ; and no one wants a steady undermining of the foundations of ordered society. Our objective is the same ; we want to see peace in the country. The question is, how can peace be restored ? We say that one of the things which is disturbing the peace of the country, *i.e.*, the civil disobedience movement, should be suppressed, and this is a measure in that behalf.

Sir, so far as the measure is concerned, criticism has been levelled and levelled with sincerity and with force, against the details of the measure. The general nature of the criticism is this that we are creating new offences and the definition of these new offences is much too wide. That is one line of criticism. The second line of criticism is that we are giving too much power to the executive and there is great risk of abuse of those powers by the executive. There is another line of criticism which is this that some of the clauses of the Bill transgress the fundamental principles of criminal jurisprudence. These are the criticisms which have been levelled against the measure. Sir, I shall deal briefly with those criticisms clause by clause as my learned friend, Mr. Puri, has done. But I want to make one general observation. We are all agreed that something has to be done to meet the civil disobedience movement, and the criticisms imply that, in the view of my Honourable friends opposite, the Bill is liable to improvement. One criticism is that a measure like this should not be a permanent measure, but should be a measure of limited duration. I see force in that criticism. There are two points of view from which you can look at it. One is this : have a permanent measure, and when the evil disappears you can repeal that measure. That is one point of view. The other view is this. This evil is not likely to last indefinitely : have it for such time as in the normal course of events would be enough to get rid of the evil. There are these points of view. Which point of view is really the sounder, is a matter which we can well discuss in Select Committee : whether it should be a permanent measure or whether it should be a measure of limited duration and, if so, what that duration should be. That is not a matter of principle. As I say, there are these two points of view : when we meet round the table in Select Committee, we shall discuss them. If we are able to convince Members who take a different view, I dare say they will agree with us. If, on the other hand, they convince us, we shall not hesitate to accept their view : so, that is a matter for Select Committee ; that is not an argument for throwing out the Bill...

Mr. B. R. Puri : That only shows which way your mind is drifting.

The Honourable Sir Brojendra Mitter : My mind is absolutely open. For the moment I think that a permanent measure should be enacted ; but as soon as the evil, for which the measure is enacted, disappears, we can repeal it : that is how my mind is working at present ; but I am open to conviction that the better course is to have a measure for a limited period. I am open to conviction that the other course is the better course : in that case, what the limit should be is a matter for discussion ; and if we meet round the table and engage in a free, frank and full discussion of this matter, I have no doubt we shall be able to come to some understanding....

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadan Urban) : What are you committed to then, may I ask ? Supposing it goes to Select Committee, what is the exact principle to which we shall be committed ?

Mr. Gaya Prasad Singh : All these different clauses.

The Honourable Sir Brojendra Mitter : I will tell you immediately. We are combating the civil disobedience movement. The manifestations of the civil disobedience movement, in so far as we know at present, are boycott and picketting, dissuasion from enlistment, tampering with public servants, and so on : what we shall be committed to is this....

Sir Abdur Rahim : All the clauses ?

The Honourable Sir Brojendra Mitter : What I say is this : we shall be committed to the principle of the necessity of combating the manifestations of the civil disobedience movement.

Mr. H. P. Mody : By the ordinary law of the land.

The Honourable Sir Brojendra Mitter : In our view, the ordinary law of the land is inadequate.

Sir Abdur Rahim : Can we enact any measure we like to combat that movement ?

The Honourable Sir Brojendra Mitter : The manifestations of the civil disobedience movement I have illustrated : there is picketting, there is dissuading from enlisting, there is boycott of public servants. There are the unlawful associations which are engaged in defying public authority and disseminating defiance of public authority. These are the manifestations.

Mr. T. N. Ramakrishna Reddi : Is the Buy Indian Goods movement unlawful ?

The Honourable Sir Brojendra Mitter : That is irrelevant. The various manifestations of the civil disobedience movement, as we see them in the day to day administration and which we find are dangerous to society, are these : if any better provisions to meet those particular evils can be devised by my learned friend, on the other side, we shall be only too glad to adopt them. The provisions in the Bill are the best that we can devise according to our limited intelligence. If my Honourable friends in their greater wisdom can suggest better methods to fight these particular evils, we shall certainly not hesitate to accept them.

Sir Abdur Rahim : Supposing we can point out that the ordinary law is sufficient to meet most of these things ?

The Honourable Sir Brojendra Mitter : It, with regard to any particular matter of which we are complaining and which is hampering administration and which is undermining authority, if it can be pointed out that the ordinary law is sufficient, we shall certainly drop the special law which we are suggesting. We are here to help in the administration of the country. Every one is anxious that the administration should go on smoothly. Do my friends imagine that we like disturbances in the country or that unrest makes our position easier ? No one likes that. We want the help of Honourable Members opposite ; we want them to help us to devise means which will be adequate for the purpose in view and which will not be in excess of the requirements. We do not want excessive powers ; we want adequate powers. Now, if in any particular matter my Honourable friends can point out that the existing law or a little strengthening of the existing law here and there would be enough, we shall certainly accept it. There has been a good deal of legal argument in the course of this debate, and when I was listening to those arguments, particularly of Mr. Puri, I was reminded of what I learned in my student days - one of the rules of pleading, which I learned then, was confession and avoidance. I confess I do not like every particular detail of this measure : there is room for improvement ; but, at the same time, what I dislike more is the necessity for it. This measure has been forced upon us. It was no pleasure to us to bring a measure like this before the House, a highly controversial measure.

Mr. H. P. Mody : If my Honourable friend will allow me to ask him a question : does not my Honourable friend recognise that the Bill before the House seeks to strengthen the ordinary law of the land, and is something very different from a special measure designed for a special emergency and for a limited period, and which does not form part of the ordinary law of the land ?

The Honourable Sir Brojendra Mitter : My friend is labouring under a confusion of thought. If we concede that a measure for a limited duration is the better course. . . .

Mr. H. P. Mody : That is not the only point.

The Honourable Sir Brojendra Mitter : I am coming to my friend's point. If we concede that a measure for a limited period would be the better course, then that would not be strengthening the ordinary law for all time. That will be strengthening the ordinary law for that period. What my learned friend is apprehensive of is this : that even in such a case, if the measure be for a limited period, it will go into the Statute-book for all time. It will not. It will be in force only for that particular period.

Sir Hari Singh Gour : Is that your Bill ?

The Honourable Sir Brojendra Mitter : My friend knows that is not my Bill ; no one pretends that it is that Bill. As I said, the Bill is a permanent measure ; and there are two points of view which I have explained ; and we are open to conviction that the better course would be to have an Act of limited duration.

Mr. B. R. Puri : Why do you not adopt the better course from the very beginning ?

The Honourable Sir Brojendra Mitter : I do not yet admit that it is the better course, but I am open to conviction.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara : General) : I hope you will now see that the unanimous opinion on this side of the House is that it is a better course.

Mr. C. S. Ranga Iyer : No, no ; certainly not. We do not want the Bill at all, limited or unlimited.

The Honourable Sir Brojendra Mitter : Whenever an Honourable Member on the opposite side speaks, he seems to say " I am the country and I am the whole public ". It is not the unanimous opinion. . . .

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : May I know if the Honourable Member would give us details of his bargain on all points to-day ?

The Honourable Sir Brojendra Mitter : There are three main heads of difference between Honourable Members opposite and ourselves, as I could gather from the debate. One is the duration of the measure on which there is a difference of opinion : second, as to the limits of the definitions of the different offences. Honourable Members opposite feel that the definitions are much too wide and the net has been cast much too wide. And the third head of difference is the nature and quantum of punishment, including procedure, e.g., cognisable or non-cognisable, bailable or non-bailable. These are the three main heads of difference. All these are matters of detail which can very well be discussed in Select Committee and as the result of the discussion,—I am sure we are all sensible people (Applause from the Nationalist Benches),—we are,—there is no reason why we should not be able to come to a satisfactory solution. If my Honourable and learned friends come to the Select Committee with their minds made up, that is quite a different matter ; but if every one of us goes to the Select Committee with our minds open, I do not despair of coming to a satisfactory solution on every one of these points.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Will you be able to do so ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order : The Honourable the Law Member should be allowed to continue his speech.

The Honourable Sir Brojendra Mitter : As my friends know, I am not taking up a hostile attitude. We are confronted with a serious situation, and we have got to meet that situation. The whole question is, how it is to be done in the least objectionable way.

Mr. Gaya Prasad Singh : Yes, in the least objectionable way.

The Honourable Sir Brojendra Mitter : That is our objective. Let us now examine the specific objections which have been taken to the various clauses of the Bill, I may say, by way of general observation, that some of the criticisms have been made without appreciating what the law is and what the fundamental principles of law are. I am now going to criticise my friend, Mr. Puri, and I know he will not take it amiss if I do so in rather plain and blunt language. Now, my learned

friend, Mr. Puri, has criticised clauses 2 and 13 as violating the elementary principle of presumption of innocence. What he says is this, that under clauses 2 and 13, as drafted, you throw the onus of innocence on the accused, and, therefore, that violates an elementary principle of criminal jurisprudence. My answer is two-fold. There is no immutable principle of jurisprudence as suggested. When I am talking of jurisprudence, I am talking of British jurisprudence and Indian jurisprudence, and not like some of my Honourable and learned friends on the opposite Benches who are talking of jurisprudence of all civilised countries. I am not familiar with the jurisprudence of all civilised countries. . . .

Mr. K. C. Neogy (Dacca Division : Non-Muhammadian Rural) : Not with the jurisprudence of Russia ?

The Honourable Sir Brojendra Mitter : I am familiar with the jurisprudence of England and of India, so that my observations will be limited to the British jurisprudence and Indian jurisprudence. . . .

Sir Hari Singh Gour : And not with the jurisprudence of all civilised countries ?

The Honourable Sir Brojendra Mitter : As I said, I am not familiar with the jurisprudence of all civilised countries. I am only familiar with the jurisprudence of England and of India. I am not familiar with the law of Mexico or of Canada or of America or France or Germany or of any other country. . . .

Mr. Amar Nath Dutt : You are familiar with the jurisprudence of Russia.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order : the Honourable the Law Member should have a patient hearing.

The Honourable Sir Brojendra Mitter : Sir, ordinarily it is undoubtedly a principle of criminal jurisprudence that you presume innocence until guilt is proved, but the circumstances of a particular case may be such that you start with a presumption of guilt, and in such a case the onus is thrown upon the accused to prove his innocence. For the benefit of my lawyer friends on the opposite Benches, I refer them to section 114 of the Evidence Act with which they are all familiar. The first illustration of section 114 of the Evidence Act is this :

“ The Court may presume that a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession ”.

What does it show ? It shows this, that the circumstances of the case are such that you start with the presumption of guilt. The man is in possession of stolen goods soon after the theft. . . .

Mr. B. R. Puri : Will the Honourable Member kindly permit me to interrupt him for a moment ? You do not start with any such presumption, because, even in the illustration taken, it is incumbent upon the prosecution to establish the factum of stealing. The theft has been established before any presumption is allowed to take place.

The Honourable Sir Brojendra Mitter : I am glad of this interruption, because it gives me an opportunity to remove the clouds which are obscuring my learned friend's judgment. Now, Sir, A is prosecuted for

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having stolen goods in his possession. What the prosecution has to prove is that there has been a theft—not that there has been a theft by A

Mr. K. Ahmed : It has no application or bearing on the point, Sir.

The Honourable Sir Brojendra Mitter : You will not understand it. (Laughter.)

Mr. K. Ahmed : It is rather difficult to understand your reasoning, Sir, I am afraid.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order.

The Honourable Sir Brojendra Mitter : Sir, if A is prosecuted for being in possession of stolen goods, all that need to be proved is this, that there has been a theft, and that the goods which are in A's possession are the stolen goods. Directly this is proved, there is a presumption that A is guilty, that is to say, either he is the thief or he knew that these goods were stolen. He has to prove his innocence. Now, if you look at clause 2, what does it say ? It says this :

“Whoever dissuades or attempts to dissuade the public or any person from entering Military, Naval, etc., shall be imprisoned with imprisonment for a term which may extend to one year....”,

and the Exception is :

“This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given.”

Sir, from the fact of dissuasion from enlistment, there is a presumption that the man has been doing this to the prejudice of the public good. . . .

Sir Hari Singh Gour : May I interrupt the Honourable Member ? He has taken a wrong illustration, because illustration in section 114 is that the Court *may* presume, and not that it *shall* presume.

The Honourable Sir Brojendra Mitter : I shall deal with that presently. What section 2 says is this, from the circumstances of the case, that is to say, from the mere fact of dissuasion, you can presume that the man did it intentionally to the prejudice of the public good, but he is given the chance of proving his innocence. Therefore, what I say, is this, as in the case of receiver of stolen goods, you start with the presumption that the man is guilty unless he can prove his innocence. You start with presumption that the man has done something against law, unless he can prove his innocence or his good faith. Sir, law does recognise the principle that circumstances may be such that by themselves they give rise to a presumption of guilt which the accused person has to rebut. Therefore, section 2 is not an encroachment upon the fundamental principle of criminal jurisprudence which deals with the presumption of innocence. My point is that circumstances may give rise to a presumption of guilt ?

Sardar Sant Singh (West Punjab : Sikh) : Will the Honourable Member kindly read the section itself instead of the illustration. The circumstances are described there in section 114.

The Honourable Sir Brojendra Mitter : The next point is *mens rea*. It was answered by my learned friend, Sir Hari Singh Gour, in the course of his speech. Mr. Puri was under this delusion that in every offence *mens rea* is a necessary ingredient. It is not so. Now, I shall read a passage from Russell.

Mr. K. Ahmed : What has *mens rea* got to do with this ?

The Honourable Sir Brojendra Mitter : This is much too recondite for you.

Mr. K. Ahmed : I am afraid it is hopeless.

The Honourable Sir Brojendra Mitter : This is what Russell says on page 105, Vol. I, 8th Edition. Dealing with the element of *mens rea*, he says this :

“ In some cases enactments by their form seem to constitute the prohibited acts into crimes even in the absence of the knowledge and intention necessary to constitute a *mens rea* ”.

In many offences *mens rea* is a necessary ingredient, but in every offence *mens rea* is not a necessary ingredient. If the law of the land prohibits a certain thing, then the doing of that thing is wrong, whether you do it intentionally or unintentionally.

Mr. B. R. Puri : You are begging the question.

The Honourable Sir Brojendra Mitter : I would give an illustration. Supposing the law of the country says that you must not be in possession of an unlicensed weapon and if you are in possession of an unlicensed weapon, you commit an offence whatever your intention may be. Your intention may be to make a lawful use of the weapon or an unlawful use of the weapon, but the mere possession of it, irrespective of intention, would be an offence under the law. Thus, there may be laws in which the element of *mens rea* does not come in.

Mr. B. R. Puri : Here you are going to justify the promulgation of such a law. You cannot make use of that argument. No doubt when the law exists in that form, there will be an initial presumption, because all the prosecution shall have to prove is that here is a man who has been detected dissuading somebody else, but I am asking you to justify such a law.

The Honourable Sir Brojendra Mitter : All I am saying is that criminal jurisprudence, both in England and in this country, does recognise cases in which *mens rea* is not a necessary element in the offence. Whether you are justified in adding to the list of such offences is quite a different matter. All I am on is this that the criminal jurisprudence of England and this country does recognize offences in which *mens rea* is not a necessary ingredient. My Honourable friends may very well say that such offences ought to be kept within the lowest possible bounds. That is a different argument altogether. What my learned friend, Mr. Puri, formulated, was that clauses 2 and 13 cut across a fundamental principle of jurisprudence. They do not.

The next clause to which I come is clause 8, that is parental liability for a child's offence. Here, again, I am very sorry that a learned counsel of the eminence of Mr. Puri should have overlooked the law on the subject

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in England. There is also a similar law in at least three of the most progressive provinces in India, that is, Bengal, Bombay and Madras. This clause has again been characterised as an outrage on the principles of criminal jurisprudence, that a man who is not an offender himself should be liable for the offence of somebody else.

Mr. B. R. Puri : If the son has committed murder, would you hang the father ?

The Honourable Sir Brojendra Mitter : The principle which was enunciated by my friend, Mr. Puri, was this that it is unknown to the law in any circumstances, that a man should be vicariously guilty. There is no question of murder or anything of that sort. Do not introduce frivolity into this discussion. It is a serious argument which was adduced by Mr. Puri and some other Honourable Members. I wish in this connection to refer to the Children's Act of England, 8 Ed. VII, Chapter LXVII. section 99 which says :

Mr. B. R. Puri : What is the age of the child ?

The Honourable Sir Brojendra Mitter : I think it is 14, I will tell you. This is what it says :

“ Where a child or young person is charged before any Court with any offence for the commission of which a fine, damages, or costs may be imposed, and the Court is of opinion that the case would be best met by the imposition of a fine, damages or costs, whether with or without any other punishment, the Court may, in any case, and shall, if the offender is a child, order that the fine, damages or costs awarded be paid by the parent or guardian of the child or young person instead of by the child or young person unless the Court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child or young person.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan) : The latter portion makes a difference.

The Honourable Sir Brojendra Mitter : I am talking of the English law. It was suggested that this principle was not known to any law. It may be unknown to my Honourable friend who was interrupting. That certainly is not my fault. Then the second clause of this section says :

“ Where a child or young person is charged with any offence, the Court may order his parent or guardian to give security for his good behaviour.”

Mian Muhammad Shah Nawaz (West Central Punjab : Muhammadan) : What is the definition of a child ? Is his age below 14 or under 16 ?

The Honourable Sir Brojendra Mitter : My impression is 14. Now
 1 P.M. I come to the Indian law, Bengal Act II of 1922, Section 25, which says :

Section 25 says this :

“ When a child or young person is convicted of an offence punishable with fine and the Court is of opinion that the case would be best met by the imposition of a fine, whether with or without any other punishment, the Court may, in any case, and shall, if the offender is a child, order that the fine be paid by the parent or guardian of the child or young person unless the Court is satisfied that the parent or guardian cannot be found ”,

and so on, the same as in the English Act. That is the law in Bengal.

Mr. K. Ahmed : That is not in Bengal regarding breach of peace.

The Honourable Sir Brojendra Mitter : Sir, there is a limit to point-less interruption ; at any rate I think there ought to be a limit. (Laughter.) Then, in the Bombay Act XIII of 1924, section 25 begins thus. Well, Honourable Members may take it from me that this is a verbatim reproduction of the English law. Similarly, in Madras, in section 26 of the Madras Act (Act IV of 1920) there is a similar provision. So my point is this, that the liability of the parent for a child is not a new principle in criminal law, neither in England nor in this country. We are not introducing anything new. Of course any Honourable Member may say that the particular clause in the Bill goes beyond necessity. I can well understand that, but all I am submitting at the moment is that this is not a new principle which we are introducing into this measure, and that it is not so outrageous as it was sought to be made out.

Sardar Sant Singh : May I ask, on a point of information, if the Honourable Member can point out any provision in English law or Indian law where a parent is sentenced to imprisonment for not paying the fine as in this case ?

The Honourable Sir Brojendra Mitter : I shall look it up during the mid-day adjournment. My impression is that the parent is liable to pay the fine.

Sardar Sant Singh : If he does not pay the fine, then what are the penalties ?

The Honourable Sir Brojendra Mitter : That I have not yet looked up, but I can easily look it up and inform my Honourable friend. Sir, in answer to my friend, Mr. Shah Nawaz's question, in the English Act a child means a person under the age of fourteen and a young person means a person who is fourteen years of age or above and under the age of sixteen. A "child" is under fourteen, a "young person" between fourteen and sixteen. Sir, that was all the criticism that was made on clause 8,—that it was something new, something outrageous, something unknown to criminal jurisprudence. Then, Sir, in commenting on section 4, my learned friend, Mr. Puri, dealing with the clause concerning the boycott of public servants, said that the clause was intended to promote a "statutory affection" for the police. Sir, our policy is not to promote statutory affection for the police. The policy underlying that clause is to prevent the malicious coercion of public servants to the prejudice of the administration. A public servant goes to a village. The local grocer refuses to sell ordinary groceries to him with the intention of harassing him, embarrassing him. Sir, this is not imaginary. That sort of thing actually happened within our experience during the non-co-operation movement and the civil disobedience movement in Guzerat, and it frequently happens ; and it is for the protection of public servants from this particular form of tyranny that this clause has been inserted in the Bill. It is not for the purpose of promoting what my friend facetiously described as "statutory affection for the police". Then, Sir, the comment on the picketing clause has been that the language is much too wide. To me it seems that the language does lend itself to misapprehension, and the fear which my Honourable and learned friends on the Opposition Benches have expressed, I am not prepared to say, is fanciful. That, however, is a

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matter which can well be discussed in Select Committee in order to improve the language of the section and to make it less wide and more definite.

Sir, in answer to my learned friend, Sardar Sant Singh's question, I may say that in the English Act it is provided in section 99 that "any sums imposed upon or ordered to be borne by the parent or guardian under this section or on forfeiture of any securities aforesaid may be recovered from him by distress or imprisonment in like manner as if the order had been made on the conviction of the parent or guardian of the offence with which the child or young person was charged". Therefore, Sir, the provision for imprisonment is there in the English Act.

Mr. B. R. Puri : May I know, Sir, if there is anything in the English law corresponding to your proposed provision which says that the imposition of a fine on the parent shall be adjudged in accordance with the nature of the offence committed by the child—whether any offences are specifically mentioned in the English law corresponding to what you lay down here?

The Honourable Sir Brojendra Mitter : I confess, Sir, I have not looked it up, because I did not anticipate this particular inquiry. The English Act is there and I hope my Honourable friend will be on the Select Committee where we shall have the English Act before us.

Then, Sir, the next point which my learned friend, Mr. Puri, raised was the constitutional point. What he said is this : under clause 15, you are delegating a legislative function which is vested in us, the Legislature, to the Governor General in Council and such delegation is incompetent and, therefore, *ultra vires*. As I understood him, that was his argument. (*Mr. B. R. Puri :* "That is so.") Sir, if my learned friend were to scrutinise that clause, he would see that we are doing nothing of the sort. Clause 15 is the addition of a sub-clause to the existing section 16 of the Indian Criminal Law Amendment Act of 1908. In that Act an "unlawful association" is defined.

Mr. B. R. Puri : Quite right.

The Honourable Sir Brojendra Mitter : The definition in section 15 is as follows :

"It means an association which encourages or aids persons to commit acts of violence or intimidation or the members of which habitually commit such acts or which has been declared to be unlawful by the Local Government under the powers hereby conferred."

Then section 16 gives the Local Government power to declare an association to be unlawful. It runs thus :

"If the Local Government is of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace."

It is only on those conditions being satisfied that the Local Government will have the authority to declare the association an unlawful association.

It is the Legislature which is laying down the conditions. It is not that we are delegating the laying down of conditions to the Local Government. The Legislature itself has laid down the conditions and it

says that if the Local Government finds that these conditions are fulfilled, it is then and then only that the Local Government will be invested with the authority of declaring an association to be unlawful.

Mr. B. R. Puri : What is the remedy if the Local Government does not follow and does not take that as a guide and proceeds to declare an association unlawful regardless of what the Legislature has laid down. What is the remedy in that event ?

The Honourable Sir Brojendra Mitter : That is another point altogether. I am now dealing with the constitutional point. What the remedy is for a breach is quite a different question. What I am now submitting is that we are not delegating to the Local Government or to the Governor General in Council any function which is properly vested in the Legislature. The Legislature has laid down the conditions, on the fulfilment of which a Local Government, under the existing law, is entitled to declare an association unlawful. All that we are now doing by clause 15 of the Bill is this. The power which the Legislature has already given to the Local Government we are giving that power to the Governor General in Council. We are doing nothing more than that. All that clause 15 of the Bill says is this :

“ The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association. ”

This power is already vested in the Local Government and all that we are now suggesting is that in similar circumstances the power may be exercised by the Governor General in Council. Therefore, we are not doing anything very outrageous. A power which is already in the Local Government, we are extending that to the Government of India.

Mr. B. R. Puri : Even that is wrong ; even that is unconstitutional.

The Honourable Sir Brojendra Mitter : If my friend says that what this Legislature enacted in 1908 and which has been in force for 24 years.

Mr. B. R. Puri : Why not meet the objection on merits ? Why plead the age of that Bill ? Is it not possible to actually detect an error at a later stage ?

The Honourable Sir Brojendra Mitter : I will appeal to my learned friend, Sir Hari Singh Gour, whether the age of a particular enactment, which has not been challenged for a considerable time, is not a relevant factor in considering the validity or invalidity of it ? And it is only for that purpose that I am saying that this has been the law since 1908. No lawyer, not even a lawyer of the eminence of Mr. Puri, has thought fit to challenge it in a Court of law when occasion after occasion arose as numbers of associations all over the country have been declared unlawful. No one thought it worth his while to challenge it, knowing full well that such challenge would not lead to any satisfactory results. Thus, Sir, the only comment on clause 15 which has been made is that it is unconstitutional and *ultra vires*. My answer is that it is already there in the law and the power, which can already be exercised by the Local Government, is being extended to the Governor General in Council. If the existing law is constitutional and legal, certainly what we are proposing cannot be

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unconstitutional or illegal. It may be said that that is hardly an argument. My further argument is this that we are not delegating the function of defining of what would constitute an unlawful association. The definition is there. It has been made by the Legislature and the circumstances in which that power can be exercised have also been laid down by the Legislature. All that is necessary for the Governor General in Council to do is an executive Act of declaration. That cannot be called delegating a legislative function.

Mr. B. R. Puri : Before you pass on to the next point, might I very respectfully draw your attention to another clause of this very nature which offends against this principle which is contained in clause 12 ?

The Honourable Sir Brojendra Mitter : I am coming to that. My learned friend, Mr. Puri, also objected to clause 12 on the ground that here we are giving the Local Government the power to amend the Criminal Procedure Code. The objection is that by clause 12 we are investing the Local Government with the power of altering the Criminal Procedure Code.

Mr. B. R. Puri : At their sweet will.

The Honourable Sir Brojendra Mitter : At their sweet will. That is the objection. My submission is that we are doing nothing of the kind. Clause 12 says :

“ The Local Government may, by notification in the local official Gazette, declare that any offence punishable under section so and so of the Indian Penal Code, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognizable and non-bailable.....”

It comes to this that with regard to certain areas the Legislature is giving the Local Government the power to declare certain offences, cognisable and non-bailable. It is not that the power of amending the Criminal Procedure Code is being delegated to the Local Government. What the Local Government has to do is merely this : to declare an area to which the change made by the Central Legislature should apply. So, all the discretion which the Local Government is being given under clause 12 is to delimit the area where to apply the provisions which we are enacting here. We are not giving the Local Government any power of legislation. It is only the power of application which is given to the Local Government and not the power of legislation.

Mr. B. R. Puri : Is your Criminal Procedure Code applicable to the whole of the country or not ? Is there any Local Government which has got the right to say that your Criminal Procedure Code will not be applicable to a certain territory ?

The Honourable Sir Brojendra Mitter : I never suggested that. What we are saying is this. In certain events the Criminal Procedure Code will be amended. We are doing that in the Central Legislature.

Mr. B. R. Puri : No, you are saying that the Local Governments shall amend, if they are so minded.

The Honourable Sir Brojendra Mitter : My Honourable and learned friend has misread that clause. I will read it out again. It says :

“ The Local Government may declare that any offence punishable under....when committed in any area specified in the notification shall be a cognisable and non-bailable offence.”

That is to say, we are giving, we the Central Legislature who have the power of amending the Criminal Procedure Code, power to the Local Governments to declare that the cognisability or non-bailability of particular offences shall apply to this area, or that area or the other area. It is only the power of application that is being vested in the Local Governments, not that the Local Governments, at their sweet will and pleasure, can change the law. We are changing the law and we say, this changed law you can apply to such areas as you think proper.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : How long is the Honourable Member likely to take ?

The Honourable Sir Brojendra Mitter : I shall probably finish in quarter of an hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : If the Honourable Member is likely to finish within twenty minutes, the Chair will allow him to continue his speech.

The Honourable Sir Brojendra Mitter : Left to myself, I think I can finish within fifteen minutes. But if anybody interrupts me, I do not know whether I can finish within that time.

Mr. B. R. Puri : As for myself, I undertake not to interrupt.

The Honourable Sir Brojendra Mitter : What about other Honourable Members ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : If the Honourable Member prefers to resume his speech after Lunch, I will adjourn the House now.

The Honourable Sir Brojendra Mitter : As you please, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The House will now adjourn till Half Past Two.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, **Mr. President** (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

The Honourable Sir Brojendra Mitter : Sir, I was dealing with clause 12 of the Bill. My submission shortly is this, that in clause 12 of the Bill what we are doing is that we are amending the Criminal Procedure Code in certain respects, and all we are saying is that the Local Government will in proper cases apply the amended provisions to proper areas. That is all we are doing. It is not delegating the functions of legislation to the Local Government.

Then the only other clause which has been criticised is clause 17E, that is, forfeiture of property. That clause has been criticised on the assumption that we are proposing forfeiture of private property of individuals. If Honourable Members were to read this clause carefully, they would see that we are doing nothing of the kind. The property, which comes within the scope of this clause, is the property of an unlawful

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association and not the property of any individual. Individuals are not touched at all. The clause says this :

“ Where the Local Government is satisfied, after such inquiry as it may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty.”

It is property which is to be used in furtherance of the objects of an unlawful association which will be liable to forfeiture. Therefore, the criticism which was made is beside the point, and I need not take up the time of the House any longer.

There is one more observation I desire to make and that is my learned friend Mr. Puri's contention with reference to section 84 of the Government of India Act taken with section 65. As Honourable Members are aware, section 65 of the Government of India Act sets out the powers of the Indian Legislature. Our powers are plenary subject to certain limitations. These limitations are set out in sub-section (2), that we may not do anything which will affect the jurisdiction of Parliament. Shortly speaking, that is the limitation. Also we may not do anything to transgress the common law of England, not all common law but such :

“ unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend on any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominions of the Crown over any part of British India.”

Sir, I do not think any Honourable Member, by any stretch of imagination, can say that we are trenching upon either the sovereignty of the Crown or doing anything which may in any degree bear upon the allegiance of any person to the Crown. I do not see how this Bill transgresses the provisions of section 65 of the Government of India Act and I confess that I fail to appreciate the point which my learned friend, Mr. Puri, made upon section 84 of the Government of India Act. Section 84 deals with the validity of Indian laws and it removes certain doubts as to the validity of certain Indian laws. It says that a law made by any authority in British India shall not be deemed to be invalid merely on account of any one or more of the following reasons. The reasons are : firstly, in the case of.....

Mr. B. R. Puri : I referred to the later portion about repugnancy.

The Honourable Sir Brojendra Mitter : That sub-clause reads thus :

“ A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy, but not otherwise, be void.”

I fail to see which part of this Bill is repugnant to any Parliamentary Act.

Mr. B. R. Puri : I endeavoured to make it quite clear in my speech that the Act of Parliament conferred the power of legislation upon the Central Legislature and that power was conferred upon that body exclusively. There is no other agency which has been given that power of legislation. Therefore, if we proceed to delegate our powers to some other agency, we would be violating and going beyond the powers which have been conferred upon us by an Act of Parliament.

The Honourable Sir Brojendra Mitter : I follow now. The argument is that this Bill constitutes a delegation of legislative functions from the Central Legislature to the Local Government or, it may be, the Governor General in Council. Such delegation is incompetent. If it is incompetent, then it violates this provision of section 84 that a law made by authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnance, be void. My simple answer is this that if we are acting within the four corners of the powers given by section 65, then we are not doing anything repugnant either to the Government of India Act or to any other Parliamentary Act. And I have endeavoured to show that what we are doing is not delegation. What we are doing is this ; we are changing the law here, and all we are saying is that the Local Government in certain circumstances will apply the changed law to particular areas. That is an executive act ; it is not a legislative act on the part of the Local Government, nor does it constitute any delegation of legislative functions to the Local Government.

These are all the legal points which have been raised in the course of this debate. I have no desire to deal with the political points which have been made. So far as the legal points are concerned, I hope I have been able to satisfy Honourable Members opposite that these points have validity in so far as the provisions seem to go beyond the necessities of the case. But the proposals which we have made in this Bill do not violate any fundamental or even non-essential principle of criminal jurisprudence. Sir, what strikes one is this. We are much too prone to magnify differences, but when you come to examine those differences, you will find that they are all differences in detail and not differences of principles. There is general agreement that an evil exists and that the evil has to be removed. Precisely by what detailed measures those evils are to be removed is a matter which may well be considered in Select Committee. Here all that the House, at the present moment, on the motion moved by my Honourable colleague, the Home Member, will be committed to, is this : that certain manifestations of the civil disobedience movement, which constitute a danger to society, should be removed by appropriate measures. Nothing beyond that. We have suggested what those measures should be. If better methods are suggested by any Honourable Member opposite, certainly they will be considered in Select Committee and considered with sympathy, having regard to the needs of society consistent with individual freedom. It is not our intention to curtail individual freedom ; our intention is to adjust the curtailment of individual freedom to the needs of society at large ; and I do not suppose it will be beyond the combined wits of the members of the Select Committee to devise proper means to achieve the object which we have in common. There is more agreement amongst us than my Honourable friends opposite care to admit. We are agreed on the fundamentals ; we differ on details ; let us examine those details in Select Committee. Sir, to quote the language of an *ex-Prime Minister*, we have had enough of talk ; let us settle down to business. (Applause.)

Mr. F. E. James (Madras : European) : Sir, I have been given the responsible duty of speaking on behalf of my Honourable colleagues and, unlike some of the parties on the other side of the House, we propose to confine our expression of opinion to one speaker from this group. The Honourable the Law Member, who has just sat down, has exploded

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to a very large extent the contention of the Opposition that this Bill contains powers which are either extraordinary or unusual. I would remind the House that this Bill proposes to replace the existing Ordinance, No. 10 of 1932, which is due to expire at the end of this year. If the House examines this Ordinance, it will find that it consists of 80 sections ; nearly 60 of those sections are being dropped ; and the House will find that those sections which are being dropped by the Government are those sections which contain the most drastic emergency powers with regard to suspected persons, buildings, control of traffic, transport of arms, posts and telegraphs, railways, vessels, etc., etc. In other words, by introducing this modified Bill, the Government themselves of their own volition, I gather in response to the improvement in the situation and also in response to public opinion, are dropping from their armoury all the most objectionable features of the present Ordinance—those features to which public objection has been made with the strongest emphasis. I want to stress that point, because I think that point has not been sufficiently emphasised by Members in the House. Now, if the House will look at the Bill by which Government propose to put on the Statute-book certain clauses in the Ordinance, it will find that it ranges itself under four main heads. There is, first of all, provision for the adequate defence of Government servants against social boycott and intimidation. I take it that not one Honourable Member on the other side will venture to argue for one moment that the Government are not entitled to protect to the fullest degree their own servants against this form of intimidation and boycott ; and I find that for once in their lives the Government, in bringing forward this proposal, are in complete agreement with the Working Committee of the Congress. For, if Honourable Members will look at the Resolutions which they passed in the beginning of the civil disobedience movement at the beginning of this year, they will find the following words :

“ Social boycott with the intention of inflicting injury on Government servants, police or anti-nationalists should not be undertaken and is wholly inconsistent with the spirit of non-violence.”

I, therefore, assume, my friends on the other side will not object to this particular provision in the Bill which is now before the House. Then, surely if Government servants are by the admission of the Congress, entitled to protection against this particular weapon, surely the public is also entitled to similar protection. You will observe that in this statement of the Working Committee it distinctly says “ social boycott with the intention of inflicting injury on Government servants, police or anti-nationalists ” ; and I presume that they mean by that phrase “ anti-nationalists ” every person who does not think alike with the members of the Congress itself. Therefore, on the admission not only of the Working Committee of the Congress, but of all thinking persons, there must be not only protection for Government servants against intimidation and boycott, but also protection of the public against similar methods. Then, Sir, the House will find in the Bill itself in the provisions made in clauses 4 and 7 for dealing with intimidation and boycott, that these powers are left to the discretion of Local Governments to apply. I very much hope that in my own province of Madras, the Local Government may not find it necessary to use these particular sections ; but it is a very important point, because the movement itself varies in

intensity in different parts of the country, and it is proof of the assertion of the Honourable the Law Member that this Bill is an attempt merely to meet a particular situation which may arise by the use of these weapons in the civil disobedience movement. The Law Member has already referred to a third defence which is, if I may call it so, the defence of children. There have been many cases in which, in order to circumvent the law, children have been deliberately used in processions, in hartals, in strikes, in schools and colleges, by their parents, so that their parents may escape coming under any legal disability. I suggest that this is a very salutary provision and as the Law Member has pointed out already similar provisions exist in Statute in the provinces and also in the Children's Act of Great Britain. That brings me to the fourth main head of the Bill, and that is the question of the control of the press. I am perfectly well aware that these provisions will lead to a great deal of ill-feeling on the part of those who are responsible for conducting the press in this country ; but I would remind the House that liberty is far more easily destroyed by those who abuse it than by those who oppose it. That is not a quotation from Mr. Winston Churchill, but it is one from Mr. Ramsay Macdonald when he was leader of the Labour Party, and in opposition. I quite admit that it is difficult not to sympathise with the difficulties caused by the restrictions which are placed upon those who conduct the press in a dignified and orderly fashion ; and I would like to say one thing to the Government on this point. We believe that, under the circumstances, it is essential not only to continue the control of the press which is at present exercised under the Ordinance, but possibly even to extend it in some directions. But that is only the negative aspect....

Mr. Jehangir K. Munshi (Burma : Non-European) : Can you give any reasons for the belief ?

Mr. F. E. James : The reasons for the belief may be seen in the amazing misrepresentation which the House can find in the press all over the country, of Government intentions, of actual facts, and of Government action,—misrepresentations that have been brought to the floor of this House and absolutely refuted when the facts have been placed before us. But my point is that while I think control may be necessary, that is a negative side of the matter. What is also important is the positive side in dealing with this question of the press. I believe, there is greater need to-day than ever for co-operation between the press and the Government, and I wonder whether the Government really escape the charge that they have not, either here or in the provinces, in the immediate past, gone as far as they might have gone in attempting to secure that co-operation. Let me read a short extract from a note written by Lord Burnham, who cannot be accused of being a liberal, in connection with the Simon Commission Report. He says :

“ I think the time has now come (*this was two years ago*) when Indian Governments and their principal departments ought to have special bureaus for dealing with the supply of news, at the head of each of one of which there should be a trained journalist capable of handling news and matter in a most efficient way. It cannot be laid down how this can be done, but the question must be carefully considered by what means the widest publicity can be obtained for the correction of misstatements and for the dissemination of the true facts in regard to the activities of the Central and Provincial Governments.”

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I would also like to remind the House of a statement in the Press Committee's Report of 1921 in which it says :

"We believe also that the malignant influence of the seditious organs of the press will in future be and in fact is already beginning to be counteracted by the growth of distinct parties in politics, each supported by its own press supplemented by the activities of a properly organized bureau of information, the value of which was admitted by many witnesses."

My whole point is this, while admitting the need for control,—that is only the negative of this question,—the important thing is that Government should, by obtaining the co-operation of the leading and more stable members of the press, get their own views published not only in the English press, but in the vernacular press as well. I need not remind the House, on the eve of constitutional changes which will greatly extend democratic principles in this country, that the press is the handmaid of democracy, and that more and more will the Governments of the day be dependent upon the press in reaching the widely extended electorates in connection with their views and their policy. The Honourable the Home Member said in the course of his observations that he was anxious that the new Governments should be given the powers, in their initial stages, which it is proposed in this Bill to confer on them. May I also suggest that if these powers are going to be conferred on the new Governments, both provincial and Central, some better arrangement than exists at present for publicity in regard to Government policy and for co-operation between Government Departments and the leaders of the press might be handed on to these new Governments? By so doing, Government will be rendering an equal service.

Now, Sir, coming again to the purpose of this Bill, I wish to ask two main questions. The first question is ; is the Bill justified ; and the second question is, if it is justified, is it really advisable ? Sir, we take a very serious view of the civil disobedience movement. It is a movement which is dominated by the ideas of revolution. It has nothing to do with constitutional agitation ; it has nothing to do with passive resistance. There is all the difference between the civil disobedience movement and the movement which is known as passive resistance.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhamadan Rural) : Do you approve of passive resistance ?

Mr. F. E. James : Without approving of passive resistance, I may say that I have the honour to be the son of one who, twenty-years ago in connection with an educational controversy in England, was a passive resister. (Applause from the Nationalist Benches.) As far as I was able to understand the doctrine of passive resistance, it is that a person obeys a particular law which offends against his conscience under protests, and that he uses every year an opportunity for making his protest known. There is no question of disobeying the law. Those who, with my father, were in the passive resistance movement were unanimous in their determination not to allow themselves to disobey the law. There lies the difference between the passive resistance movement and the civil disobedience movement. Civil disobedience is a movement which is directed to the end of making the administration impossible. It is, in other words, a gospel of direct action. It is an attempt to force

extra constitutional methods upon the Government and to make that Government thereby yield. I claim that it must be made perfectly clear that the functions of Government cannot be assumed by any organisation but that of Government. In the words which were quoted by my friend, Mr. Puri, when Government are faced with a movement of this description, "Government must govern or get out"; they must govern or abdicate to those forces which are trying to bring about their overthrow.

Secondly, Sir, this movement is not only aimed against Government, but it is a movement of aggressiveness against the community at large.....

Mr. Gaya Prasad Singh : We know our own community better than you do.

Mr. F. E. James : I am not speaking of my Honourable friend's community which is a small one ; I am speaking of the whole community in India.

That leads me, Sir, to a letter which was recently written in which the following words occur :

" My whole being rebels against the idea that in a system, called democratic, one man should have the unfettered power of affecting the destiny of an ancient people numbering over three hundred millions and that his decision can be enforced by mobilising the most terrible forces of destruction."

That is our whole case against the civil disobedience movement. That

3 P.M. quotation is from a letter written by Mr. Gandhi himself on March the 11th to the Secretary of State for India. In other words, this movement is not only a movement directed to the overthrow of Government, but it is a movement against the community at large. It is directed against those parts of the community which do not hold the views of those who are in the civil disobedience movement. Civil disobedience injures therefore the community. It destroys confidence ; it stifles consumption ; interferes with trade ; and in its effect—I want my Honourable friends opposite to note this—in its effect it brings ruin and distress to the poorer members of the society. It is not the rich man who suffers ; it is not the man who by the fact that he is a capitalist is able to manipulate behind the scenes and subsidise the movement for his own financial ends—he is not the man who suffers. The people who really suffer are the poor people who are duped and, in many cases, from my own personal observation, are led to utter ruin and destitution. Therefore, the Government have not only a duty to their own selves, but they have a duty to the community at large. If my Honourable friends do not believe what I am saying, and if they think that I am exaggerating the position and the danger of this movement, I would refer them to the unfortunate and regrettable happenings in Cawnpore and Bombay which were to a very large extent due to the presence of this particular movement in the community.

Mr. Gaya Prasad Singh : It was due to official wirepulling.

Mr. F. E. James : To go on further, admitted that the movement is a movement directed against the Government and against the community at large, is there any sign that the leaders of this movement are prepared to give up this particular weapon ? I wish I could answer

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that in the affirmative. As I understand the position of Government, it is that, as long as this threat persists, the Government must fight it, but if this movement were withdrawn by those who began it, the Government would reconsider the whole position, even in regard to this Bill. Now, I find that there is no sign at the present moment that this movement is going to be given up by its authors. I find Mr. Gandhi writing recently in regard to what he calls the embittering of relations between Britain and India. He says :

“ In so far as I am responsible and can help it how am I to arrest the process ? Not by stopping civil disobedience movement. For me it is an article of faith.”

It is one of the most depressing things that I have ever read, and as long as a leader of the Congress like Mr. Gandhi holds the view that civil obedience is with him an article of faith, I find it very difficult to recommend to Government that they should surrender any one of these powers.

There is one other point that I should like to make. Not only is there no sign at present that the Congress and its leaders are prepared to give up this particular weapon ; on the contrary, there are signs that this weapon is likely to be used not merely by the Congress, but by other parties. A policy of direct action in industrial disputes, even in educational controversies, in social movements, in agrarian questions has found a very fruitful ground. I was surprised to find my Honourable friend, Mr. Mody, after speaking in previous debates on the protection of his own vested interests, completely ignoring that point. Surely, if it is the case that this direct action method has come to stay, Government must be given adequate powers to deal with such methods.

There is one further point on the justifiability of this Bill which has not been touched upon, but I think it is a point which should to some extent influence the Members of this House. I refer to the general position of the world at large. No one who is a contemporary student of international movements can but be unaware of the fact that all over the world there is a revolt springing up against constitutional methods, both national and international. I need not remind the House of the unsettled position of the world to-day. I need not stress the point, which I believe to be one of the most important points for consideration to-day, that the dogs of war are straining at the leash both in Europe and in Asia. At this very moment there is a concerted action in defiance of the one constitutional international body, in the world, namely, the League of Nations. My point is this ; India cannot escape these influences. The desire to break contracts, to repudiate agreements, to get back to the direct action of the old days,—this desire is prevalent in a great many countries of the world and is a tremendous danger, and this country cannot escape that danger. India is engaged at the present moment in a tremendous task, and I do not think that any one of us in this House even realises the magnitude of that task. It is the task of radically altering the present administration which has given India order and security and of developing in its widest forms parliamentary and democratic Government. Surely, is it not wise under these circumstances

to take precautions against a movement which is the denial of democracy and an enemy of freedom ?

Now, Sir, it may be admitted for a moment that this movement must be met by special measures and that these special measures are justified by the movement concerned. The further question which arises is, is it advisable at this moment to try and attempt to get legislative sanction for these special measures. As far as I can understand and the many interruptions to the Honourable the Law Member's speech, I gather that there was a general consensus of opinion on the other side of the House that some special measures were justified in dealing with this threat. I assume that that is the case. The only question then that appears to divide us is as to whether these special measures should be brought before this House for ratification, or whether they should be secured by a continuance of the Ordinances. There are only three ways of doing it. The first is to continue the Ordinances, and I was amazed to hear this course advocated by such an old and tried democrat as my Honourable friend, Mr. Puri, or so able an advocate and liberal as my Honourable friend, Mr. Mody. We feel that Government have done the right thing in bringing this measure for legislative sanction. They could have taken no other course, and we certainly would prefer this course to the course suggested by my Honourable friends on the other side that the Ordinances should be re-enacted at the end of their present term. The second alternative is to drop the Ordinances altogether and not bring forward any special legislation. Even that, I gathered, would not be agreed to by my Honourable friends on the other side, who have more or less accepted the position that the Government must have some special measures to deal with this menace. The only alternative, therefore, left to Government is that they should bring forward a Bill seeking the support of the Legislature in securing powers which will enable them to deal effectively with this subversive movement.

The civil disobedience movement has worked in the past by means of discovering loopholes in the existing law. It must not be forgotten that many of the leaders of the civil disobedience movement are clever lawyers, and it takes a lawyer to discover loopholes in the law. They have been exceedingly successful in doing that. As far as I understand the Government's position, it is that they seek to close up these loopholes, so that Government shall not be circumvented in dealing with a movement of this description. There is a view that has been expressed on the other side of the House regarding the permanence of this legislation and here I want to say one word on behalf of the group which I represent. It has been suggested, for example, that it is not necessary to place these special provisions permanently on the Statute-book. One reason is that specially strong powers are always repugnant to some people. The argument has also been advanced that it is not the business of the existing administration to provide these powers for the future administration of the country. Now, Sir, as far as we are concerned, provided the Members on the other side are prepared to agree to the proposition that the Government should be armed with some powers and in that spirit are prepared to go to the Select Committee, then I think that we would not object to the limitation of these powers to a particular period. I think it should be stated that the period should

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be sufficiently long to cover the whole of the transition period, which was referred to by my friend, the Home Member, the transition period during which not only the Provincial Governments, but also the Federal Government in India are established.

Now, Sir, I have only one more thing to say. I want, in closing, to explain the attitude of my own community towards this question of what is wrongly called "repressive legislation". In the first place, we are not committed to every detail of the Bill. Speaking as one, who has had some training in law, it is obvious that some of the provisions need very careful scrutiny at the hands of the Select Committee and I understand from the Honourable the Law Member that that scrutiny will not only be given, but will be welcomed and met by the Government representatives themselves. Secondly, we are committed definitely to the principle that the civil disobedience movement and its allied movements, for I would tell this House that in certain parts of the country it is almost impossible to say where the civil disobedience movement ends and terrorism begins, is one of the biggest obstacles to reform. We are also committed to the view that the reforms which are outlined in the Prime Minister's and His Majesty's Government's statement should be pushed forward with the consent of the largest support possible of the people of the country. We are prepared definitely to support not only this administration, but any future administration which is faced with a similar position, in securing powers to deal with such movements as the civil disobedience movement. We take no special pleasure in doing this. May I speak for one moment not as a representative of a group, but as an Englishman to friends. I belong to a race which has been nurtured for centuries past in the principles of constitutional evolution and in liberty of speech and action. It must never be forgotten, however, that while we are so nurtured, our traditions are also as strongly rooted in opposition to revolution, direct action and coercion.

Mr. Gaya Prasad Singh : What is your own history ?

Mr. F. E. James : My own history is one that will bear the scrutiny of my Honourable friend over there. I am not here to give a historical disquisition. I am merely stating that I belong to a race which is nurtured in those traditions.

Mr. Gaya Prasad Singh : What about Oliver Cromwell ?

Mr. F. E. James : Not once nor twice has our own British Parliament armed the executive with tremendous powers in the face of a threat of direct action and in the face of a movement which is aimed at the community at large. I would refer Honourable Members for a moment to the debates on the General Strike in Great Britain where the executive was armed with powers which this present Government have hardly conceived of, and where those powers were used on the whole with the sanction of the great majority of the British people. It must be remembered that the powers which it is now proposed to give to the administration in this Bill are powers which are going to be administered not by outsiders, but mainly by the people of this country. Under the scheme of constitutional reform, the personnel of those who are to

administer these powers will not be very largely changed. Therefore, when Honourable Members say that they cannot trust Government to use these powers adequately, what this House is really saying, Mr. President, is that Members, on the other side particularly, cannot trust their own countrymen in the administration of justice under this Bill. Sir, this Bill is not an anti-national Bill. The national movement in this country, which was referred to by the Honourable the Home Member, does not depend on intimidation. It does not depend upon boycott. It does not depend upon misrepresentation in the press. It depends on something bigger than that. Even if we stop intimidation, boycott and misrepresentation, the national movement will still go on. Therefore, it is not true to say that this is an anti-national Bill. Nor is it true to say that this Bill, if passed, will be any bar placed in the way of ordered progress. Let me remind the House that the door is still wide open to reforms. My friends on the other side seem to suggest that the only way to meet the civil disobedience movement is to give a further instalment of responsible Government. The door is wide open. If only the people of this country can unite, they can go in at that door and get whatever reforms they want. The only thing that prevents the full fruition of India's hopes is that unfortunately the people of India are not united. Then the door is also open, as I have already said, to the withdrawal of these powers. If the civil disobedience movement is called off, I understand Government are ready to consider the question of dropping this additional legislation entirely and also the existing Ordinances. I wonder if I have misread the message of Mr. Gandhi published in the press this evening. I have made a very careful study of Mr. Gandhi's writings for some years. (I may say in passing that this House will wish to congratulate both Mr. Gandhi and Dr. Ambedkar and Mr. Rajah on an epoch making settlement.) I wonder, if I have misread Mr. Gandhi's statement, when I seem to discern in it a change of tone I wonder if it is possible that out of this settlement of a problem which is essentially a social problem in the political sphere, there may possibly be an opportunity for a settlement on far wider lines than we have at present even imagined it to be possible. As I said before, the door is open for reform, the door is open to the withdrawal of these powers. On the one hand, if our friends in all quarters of the House are determined to enter the door of reform, as indeed I hope they are, they will achieve far more than they ever hoped. On the other hand, if those who are responsible for the civil disobedience movement will but see that the door is open at present, and has been purposely left open even at this late hour, is it not conceivable to hope that a far brighter day may dawn on India, and that the peoples of this country may achieve that liberty and freedom which they have long desired? My own community, Sir, has still a part to play in this country and a great and important part. Some of my colleagues have surrendered many cherished principles in endeavouring to meet the point of view of those who desire freedom for India. I think I can claim that my community has politically advanced to a very great extent in the last few years. (Hear, hear.) But we are frankly afraid of the future, as long as there are people who are willing and it would seem very willing to allow subversive movements to go on unchecked. If once we could be convinced that those who lead this movement would be prepared to give up that movement for the sake of the very reforms they are seeking, I think the House will find, Sir, that the people of my community will

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not be backward in coming forward with their Indian friends and in helping them to achieve their desired goal. (Loud Applause.)

Sir Zulfikar Ali Khan (Nominated Non-Official) : Sir, I am grateful to you for according me this first opportunity in this Session to speak in the Assembly. Sir, I do not propose to go into the details and to examine the Bill, section by section, as others have done, but, with your permission, I shall make certain general observations. The Bill is likely to go out either for circulation or to be entrusted to a Select Committee. In any case, I trust the Bill, when it comes back to the Assembly at Delhi, will be more presentable in shape, and perhaps chastened in spirit. Sir at this momentous juncture in the history of India, when, on the one hand we expect the roseate dawn of a new Indian constitution to appear and on the other hand, the heavy clouds of anarchy threaten to darken the face of the skies, the occasion demands that we must examine the situation most dispassionately and calmly. I regret very much, Sir, the partisan spirit on your right and on your left. I have observed with regret that whenever a speaker on your right-hand side speaks, the general conduct of Members on your right is to ridicule the speaker ; especially I regretted very much that when the Honourable the Law Member was lucidly explaining his point of view, the speakers on this side heckled him very much. Sir, I also observed with regret that whenever a speaker on this side happened to support the point of view of the Government, it was generally the Government Members who gave him applause. Well, I think on this occasion the co-operation of the whole House is most essential to the well-being of this country. India, Sir, is the land of our birth, and whatever there is in this country belongs to us. India also is the scene of British labours. The possession of India has vouchsafed unprecedented prosperity to Great Indian, and it has given Great Britain a dominant position in the world. Therefore, Sir, I assert that it is the object of both sides to save India from ruin. But to save India from disaster, sympathy and wisdom are most essential on both sides. It was in 1919 that sympathy was most needed. When the Rowlatt Act was before the Imperial Legislative Council (I was a Member of that Council then), I noticed with regret that the Government did not realise the gravity of the situation then. Thousands of telegrams came to the Viceroy asking him to withdraw the measure, but the general opinion amongst the officials was, although a great storm was blowing, that still they were prepared to meet it,—and the storm duly came and disaster too ! I remember well—I was then in Lahore when the great movement sprung up against the British. Sir, the Rowlatt Act had been passed in spite of the protest of the people, and the people wanted to show their resentment against the authorities. Great trouble happened in the Punjab, as you all know—I need not go into the details—but I remember one incident. When going amongst the people who were agitating against the British Government, I spoke to them some words of wisdom, if I possessed any wisdom. They said, “ All right. If you are so anxious to restore peace, why don’t you ask the Viceroy to come down from Simla, and we shall then have a talk with him and desist from our course ? ” Well, I think the Viceroy knew the desire of the people. Still the Viceroy did not go down to Lahore : and the whole situation exploded and there was the great massacre at Jallianwala Bagh. That showed the lack of sympathy on the part of the Government and showed also that

the people were capable of resenting the action of Government in spite of their protest. I said that sympathy and wisdom were required. Wisdom was found lacking on the side of the Indians.

In 1921, when Lord Reading offered to give a Round Table Conference to the Indians, I am sorry to say that Mahatma Gandhi refused it then. I am perfectly sure that, after showing his strength in the country, if he had accepted the offer, the Indian constitutional movement would have gone very far by now. However, things were in the hands of Providence and what happened has happened. I hope that the experience of the past will teach wisdom to both sides now.

Now, Sir, coming to the causes of the present trouble which has given birth to the measure which we are discussing, I am afraid that only the effect of things is taken into consideration and not the causes. Last year, about this time, we were discussing a measure and we expressed the opinion and advised the Government to take timely warning and do things which would allay the agitation in the country. But Government took no notice of it and paid no attention to our warning. The trouble goes on increasing and the root cause of it seems to be that there is, first, unemployment in the cities and, secondly, there is the agrarian trouble in the rural areas. Civil disobedience movement has come into existence, because Government, instead of dealing with the causes, have dealt with the effect.

Sir, both the Government and the Benches on this side have referred to the French Revolution. Perhaps the analogy is not quite correct, but still it has a remote resemblance to it. In those days the trouble was almost the same, the people suffering and the rulers not caring what was happening to them. The people were starving and yet Government made no provision against famine. I remember having read in history an incident. Marie Antoinette, the Empress, sitting in her drawing room was entertaining some people at tea. She threw a piece of cake to her dog and the dog did not care to eat it. A courtier sitting by her side said : "Madam, you give cakes to your dogs, but you do not know that your subjects are starving". Marie Antoinette said : "Do my subjects have no cakes to eat?" "Well", the courtier said : "Madam, no; they have not even bread to eat." Well, Sir, you know the consequence : what happened to France and to the royal family. It was the ignorance of the situation or deliberately shutting their eyes to the distress of the people. I do not imagine that the Government in power in India are so ignorant of the distress and the misery of the people as the Government in France in those days were, but still I say, do the Government take any measure to remedy the evils which are afflicting the people? Sir, revolution is not the normal condition in India. People are affected as they would be affected in any country by hunger and here, if hunger is added to the resentment against repressive laws, I am afraid trouble would increase. If such a law as this is permanently placed on the Statute-book, people will naturally conclude that it would be better to have a terrible end than a terror without end. It is for Government to show to the people that they are capable of occupying the country with their gifts rather than with the Ordinances and their armies. Let them once show to the people that they are capable of doing this thing, that is to say, government with the consent of the people and according to their wishes, the effect would be electric. I assert, Sir, that the people are not so ungrateful to the benefits which the Government may confer on them and I am perfectly sure that the Indian character is

[Sir Zulfiqar Ali Khan.]

not ungrateful. I am afraid, Sir, that if this measure is made permanent, the remedy would prove to be worse than the disease itself. Political life in this country has practically come to an end and in this connection I may relate an incident which happened to a servant of a friend of mine in Lahore because, in those days, excessive powers were placed in the hands of the police. His servant who happened to come to the city came from outside and he happened to stand before a shop out of mere curiosity. A couple of policemen came along and marched him off. The stupefied man asked them as to what his sin was. The policeman told him that he was picketting the shop. The man said that he did not even know the meaning of the word "picket", and that he was simply standing there looking at the shop and the things it contained. The policeman said : "No, you must come along to the police post. You are a picket and picketting is forbidden by law." When they marched a few paces, the policeman asked him if he possessed any money. The man said that he did not possess much, but that they could enquire of his master whether he was his servant or whether he was a picketter. But the policeman refused to phone up the master of the man, but marched him off some more paces. Afterwards when the policeman saw that the man was very sincere in his declaration, he let him off.

Now, Sir, if this state of affairs happens frequently in the country, as is likely to happen according to this law, then the exasperation of the people would be terrible and the odium will fall on Government. The law itself would not be so much detested as the persecution which the people meet on account of the law. My Honourable friend, Mr. James, in his speech said and Mr. Puri also referred to the weighty words uttered by a Conservative statesman in England. Addressing the Government, he says, "govern or get out. These two words are very pregnant with meaning. Mr. James seems to endorse the significance of these words. What does he mean by governing? Does he advise the Government to govern the country against the consent of the people? Does he want the Government to govern the country in the interests of the minority Europeans in the country? The British Government in this country have governed for nearly two centuries with unchallenged sway and the Indians surrendered every affair of theirs to their safe keeping and, it cannot be denied and even Government officials cannot deny that for two long centuries they had full say in the matter without any interference on the part of Indians. We, Indians, supplied them with money, we supplied them with men to establish their power in India. We gave them men and money to conquer China, Soudan, Egypt and last, but not least, we shed our blood in the service of the Empire in the battlefields of the Great War. Can Mr. James or others say that after doing all this, we should like to make the British change their ways, without any reason? Nobody can deny that trouble exists in the country and there are causes for it. We say that the British Government should remedy those causes and not ask the House to supply them with more weapons to strangle the political life in the country. Mr. James said that social boycott of Government servants would very likely result, if such a measure were not in existence. I can challenge Mr. James to show if laws like these or more stringent laws than these can prevent the people from forcing or persuading those people who think more of the interests of the country than of the classes of people that Mr. James

belongs to. Sir, social boycott and political boycott are the offsprings of resentment of certain course of action and you can only prevent such proceedings and such behaviour on the part of the people by meeting the desires of the people by sympathy and justice and by showing that you can adapt your course of action according to the aspirations of the people. I quite admit that the power of the British to civilise raw people is unique, but I should also say that when those people reach a stage of desiring and feeling, the British do not show the power of adaptability then. It is for the British to cultivate that spirit and to keep India within the Empire, because only then will the British maintain and vindicate their reputation for love of liberty and love of justice.

Mr. K. C. Neogy : Sir, the Honourable the Home Member made such an admirable speech the other day that I thought it right to get a copy of the full text of that speech before speaking on this particular motion. The first thing that he said in his speech was that he was inviting the House to approve of the principle of the Bill. But, I do not find anywhere in his speech anything to indicate as to what that particular principle is, and I am not, therefore, surprised to find my Honourable and esteemed friend, Sir Abdur Rahim, on the third day of the debate putting a pointed question to the Honourable the Law Member and asking him "What is the principle that underlies this particular Bill, to which we are asked to give our assent?" The reply that the Honourable the Law Member gave was not of the usual epigrammatic style, to which we are accustomed from the Honourable the Law Member on such questions, because I remember on another occasion while we were discussing another repressive measure, the Honourable the Law Member very frankly and very concisely described the principle underlying that particular Bill as "seeking to invest the executive with powers to decide certain judicial issues." What he exactly said was that executive judgment was to be substituted for judicial judgment. I had very much hoped that he would give us some such lead on this particular occasion too, but what he said was that the principle of the present Bill was the necessity of combating the movement. That, I dare say, is the object of the Bill and certainly not the principle underlying the Bill itself. The principle, I maintain, has to be deduced from the provisions of the Bill. Now, Sir, if one goes through the Bill,—and, in going through the Bill, one cannot altogether forget the history of the Bill and the history of the predecessor of this Bill,—one is tempted to say that the principle which underlies this particular Bill is the substitution of a rule of law by undisguised and undiluted autocracy and tyranny on the part of Government. That being the underlying principle of the Bill, I do not think Honourable Members opposite expect many of us on this side to support the motion for reference to Select Committee. Now, Sir, the Honourable the Home Member went on to give the history, or rather the origin, of this Bill. He said : "It is very plain, it can be stated in two or three words, the civil disobedience movement." And then, again, he proceeded to say that it was unnecessary to give the history of that movement. I naturally sympathise with my Honourable friend, because I feel that it would not have been very convenient for him to go into the full history of that movement.

The Honourable Mr. H. G. Haig (Home Member) : The House would have been tired, Sir.

Mr. K. C. Neogy : Now, Sir, I do not propose to go further back than 1930 and I propose to be as brief as I can on this particular point. Ever since the well-known Irwin-Gandhi Pact was concluded, there was a section of British people in India, aided and abetted by a corresponding section of die-hards in England, who began to grumble, and their grumbings were given expression to in their press in India as also in England. They did not want any peace to be concluded as a result of any negotiations with Mahatma Gandhi. Then there was the secret support, I am told, of a section of the Indian Civil Service behind them in this particular attitude. Then followed the overthrow of the Labour Government in England and the installation of a die-hard Government in the India Office. And while Mahatma Gandhi was sitting at the Round Table in London, a conspiracy was being hatched in India to counter the peace efforts that he was making, and to launch into a kind of civil war in India. The European Association of Calcutta and the European Association of Bombay went the length of making specific suggestions that Government should deal with the political situation in a particular way, although at that moment the Pact was in operation. There have been several questions during this Session in this House drawing pointed attention to some of the specific suggestions made by these two Associations, and inquiring whether Government have taken any notice of them or whether Government policy was influenced to any extent by these expressions of opinion. Of course, the answer has been that Government did not even read these letters before they decided upon the course of action which they took, towards the end of 1931.

Now, Sir, speaking on the question of the Ordinances, at Delhi last winter I drew attention to a very significant statement made by Mr. Winston Churchill in the House of Commons on the 3rd December in which he said : " What is the use of sending out these committees that you propose to send to India to inquire into the various questions connected with the Round Table Conference when many parts of that country would be under a system akin to martial law ? " I would rather quote his very words in order not to be misunderstood. That is what he said on the 3rd December :

" What are we to do ? We are to send out committees to India ; they are to roam around India, large parts of which may be under something like martial law. They will roam around India in places where ordinary constitutional rights are superseded by measures of enforced protection. They are to be subjected to the same sort of ill-usage as that to which the Simon Commission were subjected by the adherents of the Congress party. India has to be kept in this state of unsettlement perhaps for two or three years."

The inquiry that I made on that occasion was as to how I was to explain to my friends of the Congress as to how Mr. Winston Churchill found it possible to make this statement on the 3rd December when Mahatma Gandhi was yet in London and the proceedings of the Round Table Conference had just closed. Sir, I did not get an answer on that occasion. Then, Sir, Dr. Ansari, a name which is highly respected among Indians of all sections, whatever differences of opinion between him and others there may be, Dr. Ansari, on the eve of his departure for Europe a few weeks ago, made a statement to a press representative in Bombay to the effect that he had actually seen the drafts of these Ordinances when the last Round Table Conference was in session in London. I have not seen any statement on the Government side, no press communiqué, challenging

the accuracy of this statement made by Dr. Ansari. Now, Sir, before Mahatma Gandhi reached the shores of India, the *Statesman*, an official organ of the Government of India for all practical purposes, did not find it difficult to say that Mahatma Gandhi shall not be allowed an interview with the Viceroy this time, and he was not ; because certain conditions were imposed on the interview that he had sought which he could not possibly comply with. I know, under the rules of this House, we are not permitted to discuss the conduct of the Governor General, but may I assume that, in such a very important matter of far-reaching consequence, His Excellency the Governor General was advised by the Members of his Executive Council ? And, if the Members of the Executive Council tendered him any advice on this particular point and, if that advice led to His Excellency's imposing those conditions on Mahatma Gandhi, then I must say, that if the civil disobedience movement followed, it was due directly to that advice which the Members of the Government gave to His Excellency in this matter.

The Honourable Sir Brojendra Mitter : Vicarious liability !

Mr. K. C. Neogy : Yes, of course. Now, Sir, may I be permitted to quote just a few words from the telegram that Mahatma Gandhi sent to the Viceroy, on the 29th December, 1931 ? This is what he said :

“ I do not know whether I am to regard these Ordinances as an indication that friendly relations between us are closed or whether you expect me still to see you and receive guidance from you as to the course I am to pursue in advising the Congress.”

He was in that telegram referring to the Ordinances that had already been promulgated in Bengal, the United Provinces and the North-West Frontier Province.

In his reply on the 31st December, the Private Secretary to the Viceroy stated as follows :

“ His Excellency is unwilling to believe that you have personally any share in responsibility for or that you approve, all recent activities of Congress in the United Provinces or the North-West Frontier Province. If this is so, he is willing to see you and to give you his views as to the way in which you can best exert your influence to maintain the spirit of co-operation which animated the proceedings of the Round Table Conference. His Excellency feels bound to emphasise that he will not be prepared to discuss with you measures which the Government of India with the full approval of His Majesty's Government have found it necessary to adopt in Bengal, United Provinces and North-West Frontier Province.”

That is to say, if you are not guilty, you are perfectly at liberty to come and see the Viceroy and he will tell you whether you can enlist yourself as a special constable and assist Government in enforcing the Ordinances that have been promulgated in the three provinces. Now, what was

the reply ? This is dated the 1st January, 1932.

4 P.M. Mahatma Gandhi says that that telegram from the Private Secretary to the Viceroy grieved him : he says .

“ It grieves me that His Excellency has rejected in a manner hardly befitting his high position the advances made in the friendliest of spirits. I had approached as a seeker wanting light on questions while I desire to understand Government version of very serious and extraordinary measures to which I made reference. Instead of appreciating my advance, His Excellency has rejected it by asking me to repudiate my valued colleagues in advance and telling me that even if I became guilty of such dishonourable conduct and sought an interview with him he could not even discuss these matters of vital importance to the nation.”

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The House knows what followed. There was a positive refusal sent in reply to this telegram ; and then was launched the civil disobedience movement. It is very illuminating in this connection to refer to at least one of the Anglo-Indian papers which is supposed sometimes to reflect the Government views in these matters and which certainly is in the closest touch with the Government Members. And, may I, in passing, mention that I obtained a copy of this issue of the *Madras Mail* from the Home Department itself ; I am not ashamed to acknowledge that, though I found a disinclination on the part of some of my Honourable friends yesterday to acknowledge the source from which they obtained their ammunition. This is the *Madras Mail*, dated the 2nd January, 1932, and I am reading a few extracts from the telegram of the Special Delhi Correspondent of that paper, the telegram being dated the 1st January. It says :

“ For the last three days political circles have been speculating as to whether Mr. Gandhi would be in jail in a week or later.”—(*Mahatma Gandhi was still in communication with the Viceroy and yet the political circles in Delhi, which I dare say mean the official circles, were speculating as to when and how soon Mahatma Gandhi would be in jail !*)—“ Speculation now is whether he will survive arrest to-day ”—(*whether the summons will be sent to him as a New Year's Present*)—“ There is no doubt that while there is general regret here at the suddenness of the developments, these developments have not caused surprise and the Government's plans have been ready for some time. (*No one wonders.*) Police forces have been duly apportioned for the purposes of internal safety and troops for their help have been allotted and despatched throughout the country.”

Certainly it must have taken a few weeks at least to do this. Then there is a very significant sentence which the Editor very rightly put in thick types :

“ There is every indication here that the challenge by the Congress is to be accepted at once with all the force that the Government can command, so that, instead of the machinery of the law gathering momentum by the process of use, it is to be started off at full speed so that no risk may be run. According to the official plan, all those, who defy the order and join the Congress, are to be jailed, so that a proper atmosphere may be created for the purpose of discussing constitutional questions.”

With whom ? Jail the congress people and then there will be an atmosphere for a proper discussion of the constitutional questions ! Then :

“ It is argued in these circles that as a result of taking firm measures, the ground will be cleared of obstructionists, and the moderate elements will be enabled to assist Government in devising proper constitutional machinery so that Parliament may enact it.”

An Honourable Member : Not very complimentary to the Moderates !

Mr. K. C. Neogy :

“ It is visualised by this school of thought that a constitution thus made will permanently ensure the vital interests of the present Government ”—(*which is very vital necessity indeed*)—“ and that it will enable the British element to set up an Indian Government with the help of British authority enforcing law and order through Indian agency, backed, if necessary, by British troops against such as would defy the new constitution.”

I almost thought I read a paraphrase of this in the Honourable the Home Member's speech itself—when he spoke of the necessity of some such measures being placed on the Statute-book to cover the period of transition.....

Mr. N. M. Joshi (Nominated Non-Official) : This is the co-operation between the Press and the Government.

Mr. K. C. Neogy : Then we come to a rather important passage where the Correspondent is giving an estimate as to the time that will be necessary for dealing effectively with this movement, crush the movement so to say :

“ There is no doubt that the Government of India's determination to face the challenge from the Congress is strong, and that within a fortnight the fight will be over through the elimination of all listed Congressmen from the area of struggle and that only when the alternate leaders step into the breach will the real test come both of the Congress resources and of the Government's authority.”

The Honourable Mr. H. G. Haig : Those are not my views, surely.

Mr. K. C. Neogy : Some are yours. That was the estimate, the very sanguine estimate, which the Government perhaps at the moment had of being able to crush this movement within a fortnight. How many fortnights have passed, we know ; and now we are expected to place some of the most stringent provisions of this Ordinance permanently on the Statute-book. The question has been raised : “ Is the civil disobedience movement a live movement or is it on the decline ? ” Have the Government already secured a victory ? Have the Congressmen been vanquished ? Different replies have been given to these questions. My Honourable friend, the Home Member, is rather cautious in his statement. He says :

“ Though I think I can claim that its supporters have lost a good deal of the impetus with which the movement was started, it is still in existence and no one can prophesy when it will come to an end.”

Now, the Secretary of State, in several of the statements made in Parliament and elsewhere, had been assuring the British public that the situation in India had been improving and steadily improving. His Excellency the Viceroy, the other day, said this :

“ I do not wish to suggest for a moment that the civil disobedience movement is finished or that it does not still remain a very definite menace, against which we cannot afford to relax our precautions. The Congress is an extensive organisation which commands, even outside its own ranks, a certain degree of sympathy among many of the educated classes. It is still pledged to the policy of civil disobedience, and is doing what it can to maintain the struggle. It would be rash to prophesy how long it will be before the Congress leaders realise, or at any rate bring themselves to acknowledge openly, that they have failed.”

That is so say, it will not be merely sufficient if the Congress leaders realise their folly, but they will be expected to acknowledge their defeat openly ; until then the present repressive policy must continue.

Mr. Villiers, in a statement which I saw published in the press, expressed himself somewhat in this form :

“ Unless the Congress leaders now in jail sign a bond of apology, recantation and future good behaviour—and further accept and work out the plan of co-operation that may be set up under the new constitution, they should be deported to the Andamans.” (*Laughter from the Nationalist Benches.*)

Now, Sir, what is the present position so far as the civil disobedience movement is concerned ? As His Excellency the Viceroy very rightly gauged the situation, the civil disobedience movement gets a good deal of support from those educated classes which, though not belonging to the

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Congress, are patriotically inclined, and if anything, the present repressive policy of the Government has been increasing every day by hundreds and thousands the numbers of such sympathisers outside the Congress pale. Either the Ordinance rule has succeeded or it has not. If the civil disobedience movement is as strong as before, though not in certain particular manifestations, if the Congress has got as great a hold upon the people as it had before the civil disobedience movement was started, then certainly the Ordinance rule has failed. If, on the other hand, the Ordinances have succeeded, if the civil disobedience movement is on the wane, then certainly there is no justification for re-enacting these stringent provisions in this measure. The position that I take up, being an impartial observer (Laughter from the Official Benches), is that the Congress movement has gathered strength. (Applause from the Nationalist Benches.) It may be that the number of arrests has declined, but still the fact remains that the Congress has been steadily expanding its own boundaries and that the number of its sympathisers is going on increasing steadily,—thanks particularly to the present policy of repression set in motion by the Government. If that be the position, surely further legislation is no remedy, and you will have to contrive some other nostrum, the Honourable the Law Member's nostrum having failed.....

The Honourable Sir Brojendra Mitter : Ours is the dual nostrum.

Mr. K. C. Neogy : I will deal with that aspect of the question too. I was very glad to hear my Honourable friend, Mr. James, expressing his earnest desire that there should be peace in the country and that some sort of reconciliation should be brought about between the contending forces.

Mr. N. M. Joshi : No, he did not say that.

Mr. K. C. Neogy : Did he not ? He is nodding assent. I was particularly glad to hear that from my friend to-day, in view of the speech he made in the Madras Legislative Council on the 26th January, 1932, when a Motion for Adjournment was moved by an ex-Minister of the Madras Council to censure Government on the policy of using force by the police against peaceful picketters. While supporting the Government policy in the matter, my Honourable friend, Mr. James, said this :

“Whether the method of enforcing the law should be by imprisonment or by the forcible dispersal of those who picket. Does any Member of this House think for one moment that the method of imprisonment will be as efficacious ? What will happen ? The jails will be full. Many youngmen,—and I regret to say,—many young women, will come forward under the impression that it is a glorious thing to go to jail. It costs them nothing, and the Government would be forced to erect more jails for which this Council would be asked to vote more money.”

And he went on to support the use of force as an alternative method, as a measure of economy particularly, and, referring to the cases of excesses in the use of force, he said this :

“The responsibility for any misuse which may have occurred rests with those who have provoked the use of this arm of the law. Upon them and upon no one else should this responsibility rest.”

So my friend thought that even if the police had exceeded their authority, even then the Congress was to blame.

Then the Home Member, the *Chota* Home Member of Madras Government, gave a paraphrase of my friend's speech in support of the Government policy, and he brought forward a very practical argument in support of this particular theory. This is what he said :

“ It has also been stated that we should put the offenders in jails. My friend, Mr. James, has given a very effective reply to it. As a measure of retrenchment, we had to cut down the salaries of poor officials and had to send away a large number of labourers employed in Government service. All this retrenchment we have to effect partly on account of civil disobedience movement of last year. If you are going simply to arrest people and to send them to jails, as my Honourable friend, Mr. James, rightly pointed out, this House will have to be asked to vote several lakhs of rupees to construct new jails, and to maintain them.”

So, that was the policy of Government. Now, I will read out a sentence from the speech of the ex-Minister of Madras who moved that adjournment motion. In showing how unlawful assemblies were created by the police themselves, this is what he said :

“ In some cases the police have tried to make out an unlawful assembly as existing, by driving together four or five people who are standing in different places, bringing them together and then beating them.” (*Laughter.*)

That, of course, meets the necessity of the situation and helps retrenchment and economy, and helps incidentally the public officials to save a few rupees which they might otherwise be asked to surrender if further retrenchment was needed for providing jail accommodation for these Congressmen. That is really the policy which the Government have followed all over the country. The strength of the civil disobedience movement is not to be judged by the number of men who are sent to jail at the present time. The number of these people is being deliberately kept down by the Government by resort to this particular policy which was justified on such excellent practical grounds in the Madras Legislative Council.

The Honourable Mr. H. G. Haig : Would the Honourable Member mind telling me whether the Madras Legislative Council accepted those accusations ? What was the result of the debate ?

Mr. Gaya Prasad Singh : The usual result that will happen here.

Mr. K. C. Neogy : The motion was talked out. That does not at all affect my position, because in that debate all the responsible Members of the Opposition, including *ex*-Ministers, spoke strongly criticising the Government policy in this matter. But what I was making out was that if the number is on the decline, it is due to the very policy to which expression was given in the Madras Council on behalf of the Madras Government, of not arresting as many people as could possibly be helped, and not sending them to jail. That is the position. And we find that the Secretary of State has been regaling the House of Commons with statistics of persons who have been arrested and sent to prison, to indicate that the movement has lost its strength. We know how that has been brought about. Apart from the lathi charges, when these prisoners are sent to jail, what sort of treatment is given there ? It is part of the same policy ; a most inhuman and brutal policy has been adopted with regard to the civil disobedience prisoners in jail, the object being the same,—to deter people from resorting to civil disobedience. What is the sort of treatment, for instance, that is meted out to very respectable people, people who can claim to occupy at least as high and respectable

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a position in the Indian society here as Honourable Members opposite might in their own homes. I will just read out a few sentences from a letter which has appeared in the press from Mr. Nagendra Nath Sen who was a Member of the Bengal Legislative Council and the President of the Bar Association, Khulna, and who, by the way, is the elder brother of our Honourable colleague, Pandit Satyendra Nath Sen. He was a Class I undertrial prisoner,—a civil disobedience prisoner. He said he was arrested on the 23rd January last when he was escorted to the jail by a sub-inspector of police. This is what he says :

“ On the 25th, an escort consisting of three or four police constables and a havildar came to the jail to escort us to the Court. There were several other political prisoners, civil disobedience prisoners, and there were besides ordinary undertrials including one who was accused in a rape case. Besides myself, the other six civil disobedience undertrials were handcuffed in pairs, and the four ordinary undertrials were also handcuffed in pairs. So there were five pairs and I was alone and odd. When my turn came and the policemen took the irons in their hands, the Deputy Jailor who was in attendance then suggested to the police that as a Division I undertrial, I should not be cuffed, whereupon the havildar wanted written orders. Receiving no response, they handcuffed me and put a rope round the entire company of the eleven undertrials, and we were thus marched off to the Court and deposited in the lock-up.”

Questions were asked with regard to this particular case in the Bengal Legislative Council and it was suggested in answer that this was done as a measure of security, because he might otherwise be rescued by the people. Then he says with regard to that particular answer :

“ No crowd had collected at the jail gate. No attempt has ever been made anywhere during the civil disobedience movement to rescue any prisoner, nor has anybody ever heard of any attempt by a civil disobedience prisoner to escape.”

Then he refers to similar other cases in which respectable people were treated like this—handcuffed just like people accused in rape cases and marched to the Court. This is a fair sample of the policy that is in operation in my province. What about treatment in jail ? Now, Sir, so far as the treatment in jail is concerned, I find that the Government of Bengal is under a system of dictatorship of the European Association and the Royalists, because this is what I read in the report of the Calcutta Branch of the European Association for the month ending the 15th April last :

“ Reference was made in the last month's report to the question of the behaviour of political prisoners in Dum Dum jail. In response to the Committee's representations, the Government promised that strict discipline should be maintained, but the Committee has since been informed that there has been no improvement in the state of affairs. The Committee have arranged to approach the Honourable Member in charge of Jails personally, and if no satisfaction can be obtained in this way, the matter will be pressed on Government with the utmost urgency.”

This is what we find in the proceedings for the month ending the 15th April. And, in the *Calcutta Gazette*, dated the 28th April, there appeared a rule under the Bengal Criminal Law Amendment Act which deals with detenus and not, I admit, with the civil disobedience prisoners. But, then, my point is that they make no distinction at all in the treatment that is meted out to the detenus who are detained under the Bengal

Criminal Law Amendment Act in the Bengal jails, and the civil disobedience prisoners, so far as this particular point is concerned. The rule runs as follows :

“ If any detenu—(we might as well, for all practical purposes, substitute the words any civil disobedience prisoner).....declines or neglects to comply with any order made, direction given, or condition prescribed, by virtue of any rule made under.....the authority which made the order, gave the direction, or prescribed the condition may use any and every means necessary to enforce compliance with such order.”

That is the system of jail administration that is in operation in Bengal at the present moment. And here I have an account which was made the subject of an interpellation in the Bengal Legislative Council regarding an assault that was committed by no less a person than an European member of the Indian Civil Service, the sub-divisional officer of the particular sub-division where this assault took place on a civil disobedience prisoner on his refusal to give the usual thumb impression. This particular man was so ill on that day that he had to be carried on a stretcher to the Court. The sub-divisional officer, I understand, was holding his Court inside the jail premises, for the purpose of trying this offence of refusal to give the thumb impression. Now, this man having been carried on a stretcher was convicted to two months' rigorous imprisonment for having refused to give his thumb impression. Having received this punishment, this man, along with another who was not ill, was returning to their ward when the sub-divisional officer called them back. Some jail sentries were also called and the sub-divisional officer then asked them again to give their thumb impression. But they persistently refused. At this he flew into a rage and, snatching a baton from a police officer, struck this sick man on the head, hip, and other parts of his body. The police officer and the sentries also took up the cue and made free use of whatever they could put their hands on. The sub-divisional officer sat upon the chest of this sick man, dislocated his thumb and forefinger joint by applying force and then his thumb impression was taken.

The Honourable Mr. H. G. Haig : Would the Honourable Member kindly state his authority ?

Mr. K. C. Neogy : Some of these facts have been published in the Press. There were also certain questions and answers in the Bengal Legislative Council to which I am coming presently. The mother of this sick man had submitted a detailed representation to Government making definite allegations ; and a petition, I am told, has also been submitted to Government by his fellow prisoner. Now, the thumb impression of this man who had accompanied this sick man was also taken in the same way :

“ His hand was fractured. He was struck on the head with a baton and kicked on the stomach.

Both these men became unconscious, and the sick man's wound was bleeding profusely. Hearing the tumult, the jailor rushed to the place and sounded alarm, but on understanding the situation he stopped the alarm and tried to pacify the prisoners with the assurance that proper steps would be taken. It was found that the sick man had a deep and long wound on the forehead, apart from other marks of assault, and his fingers of both hands had been damaged, and abdomen swollen with kicks.”

Mr. S. G. Jog (Berar Representative) : May I inform the Honourable Member that a similar and parallel incident took place in the Central Provinces where an *ex-M.L.A.* was meted out the same treatment.

Mr. K. C. Neogy : I am very glad that the Honourable Member has referred to this incident. I am not referring to any incident regarding which I do not have definite papers in my hand. A question was asked in the Bengal Legislative Council drawing attention to this particular case and this is the reply which was given by the Member in charge :

“ The prisoner refused to give his thumb impression as required under section so and so of the Identification of Prisoners Act, of 1920. He was informed of the fact that the provisions of the law clearly contemplated that such impression should be taken by force, if necessary, and after every effort was made to make him give his thumb impression, he resisted the officer discharging his duty. A struggle ensued (*mind you, with a man who had to be carried on a stretcher*) and, in the course of the struggle, the prisoner received minor injury. The prisoner was not deliberately assaulted.”

The Honourable Mr. H. G. Haig : This does not seem to be consistent with the very elaborate and highly coloured account which the Honourable Member just read out.

Mr. K. C. Neogy : I would advise the Honourable Member to be a little more patient, because there is another very long extract from the press but I do not want to tire the House by quoting it. I should like to send it on to him if he wants to satisfy himself about the facts relating to this incident. I can also send him copies of the petitions addressed by the mother of this man and his fellow prisoner, if he so desires.

That should serve as a fair sample. Now, Sir, here is another instance of an assault on an under-trial prisoner while he was being removed from the police station. Mr. Dhiresh Chandra Chakravarti, M.A., Editor, the *New Era*, a Nationalist English Weekly of Calcutta, was convicted at Munshiganj, Dacca, to two years' R. I. for preaching the Congress programme at a meeting on the 25th January last. He was removed from the Munshiganj sub-jail to the Dacca Central Jail on the 27th January in a handcuffed state. A large number of people gathered on the roadside and greeted him with shouts of “ *Bande Mataram* ”. At this, an Assistant Superintendent of Police, who was then at Munshiganj Thana, rushed out and assaulted Dhiresh Babu with blows on the left eye and temple. Being handcuffed, he could offer no resistance. The spectacles he wore were smashed to pieces. For the time he was rendered unconscious. It was most fortunate that the broken pieces of glass only scratched the lids and did not pierce into the eye which had been narrowly saved. After this, the authorities left him without any glasses for days together and ultimately these had to be supplied from his home. This incident also formed the subject matter of interpellations in the Bengal Legislative Council and this is what the *Chota* Home Member said :

“ Yes, one blow was struck, but there was a certain amount of provocation and the officer was totally unaware that Dhiresh Babu was handcuffed.”

Then the question was asked :

“ Is it a fact that Dhiresh Babu became unconscious and the glasses were broken ? ”

The answer was :

“ His spectacles were broken, but he was not rendered unconscious.”

Then some further questions were asked : the Home Member was asked :

“ What was the nature of the provocation ? ”

The answer was :

“ I am not in a position to give details.”

Now, Sir, later on it appears that the Government decided to take some notice of the conduct of this officer. I am sorry my Honourable friend, Mr. Morgan, is not here at the moment, because the action taken against this officer was to transfer him to Narayanganj ; and if my Honourable friend were here, I would have asked him to remember his bachelor days and tell this House whether Narayanganj is considered to be exactly like a penal settlement.

Mr. H. P. Mody : Is it necessary to go to his bachelor days to determine that ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair would like to know if the Honourable Member is going into further instances of the operation of the Ordinance at this late hour.

Mr. K. C. Neogy : I am afraid I shall have to trouble the House....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member has already given some instances. The question for him to consider is whether at this late hour he need go into further instances of that kind.

Mr. K. C. Neogy : I will certainly abide by your suggestion and I would cut short my observations on this part of the case, but I do not think I will be able to finish to-day, unless the House is prepared to sit till a late hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Honourable Member can proceed with his remarks.

Mr. K. C. Neogy : Now, Sir, the position has been very well summed up in his own inimitable way by Mahatma Gandhi in his letter, dated the 11th March to the Secretary of State for India. This is what he says :

“ Repression appears to me to be crossing what might be called the legitimate limit and governmental terrorism is spreading through the land. Both English and Indian officials are being brutalised. The latter, high and low are becoming demoralised by reason of the Government rewarding as meritorious disloyalty to the people and inhuman conduct towards their own kith and kin. The latter are being cowed down. Free speech has been stifled. Goondaism is being practised in the name of law and order. Women who have come out for public service stand in fear of their honour being insulted and all this, as it seems to me, is being done in order to crush the spirit of freedom which the Congress represents. Repression is not confined to punishing civil breaches of the common law. It goads people to break newly made orders of autocracy designed for the most part to humiliate them.”

Now, in the latter part of this, he was obviously referring to that new fangled system of punishing people, to which resort has been taken very largely in Bombay, of letting people out on so-called parole and then imposing humiliating conditions on them, without any justification whatsoever, of reporting themselves to the police several times in the day. And, when, naturally, they refuse to comply with such humiliating terms,

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these people—including in one case the Principal of a first grade Medical College in Bombay, in another case an *ex*-Advocate General of Bombay, and several other eminent and distinguished advocates and several well-known and respected ladies—have been sent to jail for long terms ! Now there are novel systems which have been devised in various provinces to carry out the spirit of the Ordinances. One of them which is in operation in my part of the country, my district, as a matter of fact, is to arrest ladies who defy the laws and are prepared to go to jail, to take them into custody, to lead them some miles away from their places, and to lead them on to island *chars*. I may explain for the benefit of my friends that there are small islands thrown up in the middle of the very large rivers that we have in Eastern Bengal, and these *chars* are in many cases uninhabited and full of jungle. Now they take these ladies to these lonely islands in the midst of these big rivers, set them at liberty there at dead of night.

An Honourable Member : Under what law is this done ?

Mr. K. C. Neogy : I should like to ask the Honourable the Home Member to tell me as to the provision of law under which this is being done. Sir, in making this statement, I have the authority, of no less a person than an Honourable Member of the other House, who wanted to put some questions on this particular aspect of the administration of the Ordinances in the district of Dacca. Of course, under the rules these questions have been disallowed as concerning provincial matters. I shall read out a few lines from these questions which I have got in print in my hand. The first question was :

“ Will Government be pleased to state if there is any provision in the Ordinances that allows the leaving of arrested persons in deserted fields and channels by the police ? Are Government aware that Mrs. so & so, a lady non-co-operator, wife of a retired sub-inspector of police.... (*mark that*)....and niece of Rai Bahadur so and so, C.I.E., M.L.C., Government Pleader, Dacca (*Hear, hear*) was arrested at a certain place within the jurisdiction of such and such police station and was made to pass a dark night in a lonely jungle in a river bank infested with snakes ? ”

Another question was :

“ Will Government be pleased to make a statement on the cases of the said Mrs. so and so and Mrs. so and so arrested in connection with the civil disobedience movement and state why they were compelled by some policemen of Nawabgunge police station of Dacca to go to a lonely jungle on a dark night, to be left there by them without assigning any reason therefor ? ”

Sir, I actually have with me several statements made by some of these ladies in the vernacular, and there have been several other instances of this kind in my part of the country, but I have no desire to trouble this House with any quotations from these statements. Now, that is a very ingenious method of terrorising respectable ladies, so that the number of arrests may not go up, so that the Secretary of State may make the complacent statement in the House of Commons that this movement is under control. Sir, the Honourable the Home Member in one part of his speech stated this :

“ I do not think that an impartial visitor to these shores at this moment would regard the press in this country as being unduly restricted or having much difficulty in saying very plainly what it thinks of the Government. ”

Now, I have in my hand a statement that was made in the Bengal Legislative Council as regards the action that was taken in that province during a period of six months, I think, under the Press provisions, and from this

statement it appears that there were 31 newspapers and presses from whom security had been taken, and that the securities of three were forfeited, and that warnings had been given to 38 newspapers. And in this list we do not miss one single prominent Indian-edited newspaper in Bengal, and the warnings had been given in some cases on more than one occasion. So, Sir, that is the position which an outsider visiting the shores of India at the present moment would find ! And that is certainly evidence of the great consideration which the Government are showing to the Press in the matter of enforcing the Press provisions of the Ordinances and the Press Act. Now, the Honourable Member says that the Press is not finding it difficult to give expression to their views as regards the Government policy. Certainly, that statement deserves the greatest weight coming as it does from the Honourable the Home Member. But here is another authority I am going to quote, which is entitled to no less respect than that of the Home Member himself, I mean the Bombay High Court. In the *Indian Daily Mail* case, with which they had to deal, a security of Rs. 6,000 had been demanded on account of certain comments. There was an application before the High Court and the Advocate General, on behalf of the Government, maintained that under the law it was no defence that the facts alleged were true, and that whatever might have been the motive of the comments, their effect was to "bring the Government and the administration of justice into contempt". The truth of the allegation made was no defence ! They had not to consider the object, the motive of the writer, but the actual "effect" on the minds of the readers. The object of the comments may be the highest, and the motive the best, but what "effect" did the writing have on the mind of the average reader ? The Chief Justice, on behalf of the High Court, upheld this contention and in the course of his judgment he said as follows :

"The effect of the Ordinance seems to me to bring within section 4 of the Press Act every charge of misconduct of Government, whether such charge is well-founded or not. It has been argued by the Defence Counsel, in effect, that it is better that misconduct, if any such there be on the part of Government, should be publicly exposed in order that it might be argued and that in the long run such exposure will end ... the hostility against Government but in my view questions of that sort are really outside the scope of our inquiry. They are really questions of policy. No doubt the Legislature had such considerations in their mind when they framed the explanations to section 124 of the Indian Penal Code which deals with sedition, but there are no explanations in the Press Act and the words of the Press Act will govern the tendency in the article. In section 124A, the offence must amount either to the creation of hatred or attempt to create such a feeling."

Now, Sir, almost similar were the circumstances in which the Calcutta High Court in a case against the *Ananda Bazar Patrika* had to hold most reluctantly that under the provisions of the Press Act they had no option but to reject the application made by the newspaper concerned. Mr. Justice Charu Chandra Ghosh, delivering the judgment in this particular case, said :

"The provisions of the Ordinance were exceedingly stringent but His Lordship could not engage in any discussion of their drastic character. Such a discussion would be irrelevant or useless especially as the explanation to section 124A of the Indian Penal Code was not reproduced in section 68 of the Ordinance. His Lordship therefore, held, and held most reluctantly, that the petitioners were without any redress and that therefore the petitions must be dismissed."

I do not know whether my Honourable friend, after hearing these two observations, made by the different High Courts, would yet stick to the view

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that the Press in this country was not finding it difficult to give expression to what they thought about the Government policy.

Mr. Jehangir K. Munshi : Who are the two Judges ?

Mr. K. C. Neogy : The three Judges in this particular case were Mr. Justice Ghosh, Mr. Justice Costello and Mr. Justice Remfry.

In the Bombay case, I do not have the name of the other Judge. It might be Justice Nanavati. Here I incidentally refer to an observation made by my Honourable friend, Mr. James, regarding the desirability of having better co-operation between the Press and the Government. Quoting a passage from Lord Burnham's statement, he said that there should be better publicity arrangements of the Government for the dissemination of truth. This is what he said in effect. Now, Sir, truth is a thing which, under the Ordinance, the Press is not permitted to express, as found by the Bombay High Court. The Press is expected to publish official communiqués, but not the truth.

Here is another case from the Calcutta High Court, the well-known case of the *Anurita Bazar Patrika*. Here there was a difference between Justice Ghosh on the one hand, and the Chief Justice and Mr. Justice Mallick on the other, Mr. Justice Ghosh, holding that the article complained against did not come within the mischief of the Ordinance, the other two Judges holding that it did. I daresay, the Honourable the Home Member has gone through the very learned judgment delivered by Mr. Justice Ghosh on this occasion. I have no desire to tire the House with any extracts from these judgments. But this in itself is sufficient that here was the seniormost puisne Judge of the Calcutta High Court, who officiated as a Chief Justice, holding very strong views regarding the state of the law. Although his was a dissentient judgment, certainly it did deserve some amount of consideration at the hands of the Government. Incidentally, I might mention that Mr. Justice Mallick, in delivering a short judgment concurring with the Chief Justice, referred to the fact that the writer in the offending article had advised the members of the Christian community, because the writer himself is an Indian Christian, to take to Khaddar. And he seems to imply that this reference to Khaddar itself is a sufficient evidence of criminality on the part of the writer. I look forward to see the name of this judicial luminary in the next Honours List.

Now, Sir, before I leave the opinions of the High Courts, I should like to refer to an observation made by the Bombay High Court. It is the Chief Justice who delivered his judgment in a case which arose out of the Ordinance. His Lordship said as follows :

“ Experience shows that irregularities and illegalities have been creeping in the administration of the law.”

Now, Sir, my Honourable friend, Mr. Anklesaria, the other day was saying that in his opinion the Ordinances could not be said to have been abused. Sir, entitled as my Honourable friend's opinion is to a very high respect in this House, I think the opinion of the Chief Justice of the Bombay High Court is also entitled to some amount of respect at our hands. It is these illegalities and irregularities to which reference is made by the Honourable the Chief Justice of the Bombay High Court that this Bill, in

effect, seeks to perpetuate, to standardise and to stabilise by re-enacting some of the worst provisions of the Ordinances.

Now, Sir, how have the police been handling the situation ? Here is a very eloquent evidence which is a statement made by the Honourable the Home Member himself in this House showing on how many occasions unlawful assemblies had to be dispersed with the help of firing and how many casualties there were as a result of such firing. I find in this list that Bengal takes the lead with as many as 17 occasions in which 20 were killed and 74 wounded ; United Provinces, 9 killed and 106 wounded ; Bihar and Orissa, 20 killed and 40 wounded ; North-West Frontier Province, 2 killed and 9 wounded. Then, Sir, from a statement in the Bengal Legislative Council we find that during six months from January to June fines were imposed on 1,955 persons for taking part in civil disobedience movement, the properties of 388 of whom were attached for the realisation of fines. The fines amounted to Rs. 1,49,488, a kind of nest-egg for the Finance Department. That shows that even in meeting an admittedly non-violent movement, Government had to resort to the extreme measure of firing in so many cases.

The Honourable Mr. H. G. Haig : It is obviously a violent movement, Sir, and not very creditable to those who have organised it under the pretext of non-violence.

Mr. K. C. Neogy : I do not know what evidence my Honourable friend has to pronounce this whole movement as violent.
5 P.M.

Mr. F. E. James : Murders in Bengal.

Mr. K. C. Neogy : The statements relate to occasions on which unlawful assemblies were dispersed after the present civil disobedience movement was started. I think the reference is to assemblies of unarmed people formed in pursuance of the civil disobedience movement which is undoubtedly a non-violent movement.

The Honourable Mr. H. G. Haig : Professedly.

Mr. K. C. Neogy : Of course, I do not know whether my Honourable friend has any evidence to support this theory of his that the movement had ceased to be non-violent.

Now, Sir, I will come to another aspect of the question under the special powers Ordinances.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Before the Honourable Member proceeds further, the Chair should like to know how long he is likely to take.

Mr. K. C. Neogy : It might be about three-quarters of an hour

Mr President (The Honourable Sir Ibrahim Rahimtoola) : In that case, the House will now adjourn till eleven o'clock to-morrow.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 29th September, 1932.

LEGISLATIVE ASSEMBLY.

Thursday, 29th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

MEMBER SWORN.

Mr. John Bartley, M.L.A. (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

HOLDING OF POLITICAL MEETINGS IN THE JUMA MASJID, DELHI.

847. ***Mr. M. Maswood Ahmad** : (a) Is it a fact that a meeting of the Muslim public of Delhi was held on the 29th August, 1932, to consider a letter from the Chief Commissioner of Delhi regarding the holding of political meetings in the Juma Masjid ? Is it also a fact that the action of the Local Government was highly resented in that meeting ?

(b) If the reply to part (a) above be in the affirmative, will Government please lay on the table of the House :

- (i) a copy of the correspondence which has passed between the Chief Commissioner, Delhi, and the Managing Committee of Juma Masjid, regarding the holding of non-religious and political meetings in the said mosque ; and
- (ii) a copy of the terms of agreement signed by the representatives of the Muslims when the Juma Masjid was handed over to them by Government in 1862 ?

The Honourable Mr. H. G. Haig : (a) A communication was addressed to the Juma Masjid Committee on the subject and a meeting was summoned by the Committee. I am told that no resentment was expressed by those who attended the meeting in response to the invitation issued to them.

(b) (i) I understand that the matter is still under correspondence between the Deputy Commissioner of Delhi and the Juma Masjid Committee.

(ii) A copy of a translation of the agreement of 1862 is being placed in the Library.

Mr. M. Maswood Ahmad : Have Government got any claim on this mosque ?

The Honourable Mr. H. G. Haig : I would refer the Honourable Member to the agreement itself, a copy of which, as I said, is being placed in the Library.

Mr. M. Maswood Ahmad : Was the letter of the Chief Commissioner sent on his own motion or at the request of any one else ?

The Honourable Mr. H. G. Haig : The Chief Commissioner no doubt took action on his own authority.

Mr. M. Maswood Ahmad : Are Government aware that any interference with the full use of the Juma Masjid by the Muslims according to the *Shariat* will cause great resentment throughout the country ?

The Honourable Mr. H. G. Haig : There is no question of any interference with the Juma Masjid in connection with its use as a religious building.

Kunwar Hajee Ismail Ali Khan : Will Government place a copy of the agreement on the table of the House instead of in the Library ?

The Honourable Mr. H. G. Haig : I have already promised to place it in the Library. I do not know whether the Honourable Member particularly wishes it to be laid on the table ?

Mr. M. Maswood Ahmad : If it is laid on the table of the House, it will form part of the proceedings and everybody will be able to see it.

The Honourable Mr. H. G. Haig : If that is a point to which the Honourable Member attaches any importance, I am quite prepared to lay it on the table.

NOTICE TO QUIT DELHI ON MAULANA SAJJAD OF BIHAR.

848. ***Mr. M. Maswood Ahmad :** Is it a fact that a notice was served by the Local Government of Delhi on Maulana Sajjad of Bihar ordering him to leave Delhi at once ? If so, under what provisions of law was the said notice served ? Are Government prepared to consider the desirability of withdrawing the said order against him ?

The Honourable Mr. H. G. Haig : Yes, an order was served on the 31st August last, under section 4 (1) of the Special Powers Ordinance, X of 1932. It is not considered desirable to withdraw the order.

Mr. Gaya Prasad Singh : What was the specific offence for which this order was served ?

The Honourable Mr. H. G. Haig : There is no question of a specific offence. The gentleman was ordered to leave Delhi.

Mr. Gaya Prasad Singh : Why was he ordered to leave Delhi ?

The Honourable Mr. H. G. Haig : Because his presence there was considered to be undesirable in the interest of the law.

Mr. Gaya Prasad Singh : What was the evidence in possession of Government which made them come to the conclusion that his presence there was undesirable ?

The Honourable Mr. H. G. Haig : I am not prepared to discuss the reasons for such an order.

Mr. Gaya Prasad Singh : That is just what I thought.

EXPENDITURE ON THE ROUND TABLE CONFERENCES.

849. ***Mr. M. Maswood Ahmad** : Will Government please collect and lay the following information on the table of the House :

- (a) the total expenses incurred on the first Round Table Conference and the amount contributed by His Majesty's Government ;
- (b) the total expenses incurred on the second Round Table Conference and the amount contributed by His Majesty's Government ; and
- (c) the amounts paid to each of the different members of the Round Table Conference ?

The Honourable Sir C. P. Ramaswami Aiyar : (a) and (b). I would refer the Honourable Member to the proceedings of the Standing Finance Committee of the 19th June, 1930, in which the distribution of expenditure between His Majesty's Government and the Government of India in respect of the first Round Table Conference was explained. The same principle was adopted for the second Round Table Conference. The actual expenditure for the first Conference debitable to Indian revenues was Rs 6,64,289. Similar figures for the second Conference are not yet available, but the expenditure approximately amounts to Rs. 6,62,600. No information is available in regard to the expenditure incurred by His Majesty's Government.

(c) To calculate the amounts received by each member of the Round Table Conference would be difficult and involve an expenditure of time and labour that would not be justified.

Mr. B. Das : With reference to the answer to part (c), was there any discrimination in the matter of payment of allowances to individual members of the Round Table Conference ?

The Honourable Sir C. P. Ramaswami Aiyar : Not that we are aware of.

APPOINTMENT OF EUROPEANS TO SUPERIOR MEDICAL SERVICES IN THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

850. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Uppi Saheb Bahadur) : (a) Will Government be pleased to state whether their attention has been drawn to a leaderette appearing in the *Hindu* of Madras, dated Monday, the 22nd of August, 1932, regarding the recruitment of a European to fill up the post of a District Medical Officer (senior scale) in the Madras and Southern Mahratta Railway ?

(b) Is it not a fact that the recommendations of the Lee Commission for the gradual Indianisation of the Superior Services of the Railways to the extent of 75 per cent, provided suitable candidates are available, has been accepted by the Company-managed Railways ?

(c) Is it a fact that the Madras and Southern Mahratta Railway have recruited five officers to the Superior Services of their Medical Department since 1925 of which four are Europeans ? If not, will Government

please state the number of appointments made since 1925 and the proportion maintained between Europeans and Indians in that department ?

(d) In view of the large proportion of Europeans recruited, will Government please state why the Madras and Southern Mahratta Railway have still advertised for another European Medical Officer this time ? Is it because Indians of the requisite qualifications are not available to fill up that vacancy ?

(e) Will Government be pleased to state also what attempts have been made by the Madras and Southern Mahratta Railway to find out whether such qualified Indians are forthcoming ?

(f) Over and above the policy of Indianisation, are Government aware that the recruitment of a European officer entails extra expenditure in the shape of overseas allowance, passage money and other Lee Commission concessions ? Do Government propose to see that in these days of retrenchment in expenses such expenditure should be avoided by recruiting an Indian ?

Mr. P. R. Rau : With your permission, Sir, I will reply to questions Nos. 850 and 851 together. I have called for certain information and will lay a reply on the table in due course.

EUROPEANS AND INDIANS IN THE SUPERIOR SERVICES OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

†851. ***Mr. M. Maswood Ahmad** (on behalf of Mr. Uppi Saheb Bahadur) : Will Government be pleased to state whether the percentage of recruitment of Indians in the other departments of the Madras and Southern Mahratta Railway is also in the same proportion as in the Medical Department ? If not, will Government be pleased to lay on the table for the information of the House a statement of the number of Europeans and Indians, with their respective qualifications at the time of recruitment, recruited to the Superior Services of the Madras and Southern Mahratta Railway since 1925 ?

Mr. S. C. Mitra : Sir, is it possible, with the permission of the House, to stop the putting of questions and take up the Bill we are discussing ?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair understands that the Honourable the Leader of the House made an attempt in that direction, but found that there was no unanimity in the House.

Mr. S. C. Mitra : We have arrived at unanimity now and I think there is no objection on this side.

The Honourable Sir C. P. Ramaswami Aiyar : Before the House sat for the discussion of business, I endeavoured to ascertain the opinion of Members of this House and I was told that complete unanimity was not reached. In those circumstances I did not think I would be justified in placing the matter before you. But, if it is the unanimous wish of the House that the debate on the Bill should go and that questions will not be taken up to-day, I would make that request to you, Sir, and you may ascertain the wishes of Honourable Members.

†For answer to this question, see answer to question No. 850.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : A suggestion has been made that in view of the importance of the subject which is being discussed for the last three days, no further questions should be allowed to be put and that the House should proceed to the discussion of the Bill which is before it. The Chair wishes to know whether the House is unanimous in favour of that procedure.

(*Cries of "Yes".*) Any Honourable Member who wishes to object will please rise in his seat. (No one rose.) As no Honourable Member objects, no further questions will be allowed to be put.

The Chair further wishes to inform Honourable Members that having regard to the stage at which the discussion on the Bill has reached, there is a likelihood of the House being called upon to meet to-morrow and therefore it is desirable that the Chair should know whether the House desires that questions should form part of the order paper to-morrow or whether the question hour should also be devoted to the discussion of the Bill. This point may as well be decided now. Is any Honourable Member desirous of having question hour to-morrow? (*Honourable Members : "No, no".*) If any Honourable Member is against dispensing with questions to-morrow, he will please rise in his seat. (No one rose.)

Mr. N. M. Joshi : May I just ask whether those questions, which have been set down and which the Members are content to have replies printed thereto, will be included in the proceedings?

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The Chair informed the Honourable House that any Member giving to Government the numbers of questions he wishes answered, Government will treat them as unstarred questions.

MOTION FOR ADJOURNMENT.

TERRORIST ATTACK ON SIR ALFRED WATSON IN CALCUTTA.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I have received a notice from Mr. Morgan that he proposes to ask for leave to make a motion for the adjournment of the business of the House to-day for the purpose of discussing a definite matter of urgent public importance as follows :

"The terrorist attack on Sir Alfred Watson in Calcutta following on the Chittagong outrage."

I have to inquire whether any Honourable Member has any objection to this motion. (No objection was taken.)

As no objection has been taken, I declare that leave is granted and that the motion will be taken up for discussion at 4 P.M. this afternoon.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I sincerely apologise to the House for having trespassed on its indulgence

[Mr. K. C. Neogy.]

and both he and the Noble Marquis Lord Reading are emphatic on this point :

“ We ought to be told how they are going to be operated and not after we part with our control of Indian affairs. We know nothing about this, and I doubt if any one knows. But let us assume that the safeguards can be made effective ”.

I think the safeguards are intended to be made effective. I have not heard anything yet to suggest that the safeguards are only in the nature of illusory safeguards.

“ What, then, ”

asks Lord Lloyd :

“ about responsibility ? Listen to the list of them. I will not read all of them, because the Noble Marquis (*referring to Lord Reading*) has just given the formidable list of safeguards. Command of the army, control of foreign affairs, relations with the Princes, financial stability to be effectively safeguarded, internal security to be safeguarded ultimately, minorities to be protected, British trade to be protected against unfair discrimination, rights of the services to be maintained ”.

Mr. B. Das (Orissa Division . Non-Muhammadan) : What is left then ?

Mr. K. C. Neogy : This is the formidable list of safeguards as given by the Noble Marquis in the House of Lords. Then Lord Lloyd enquired “ what is left of responsibility if all these safeguards are to be made effective ? ” I want my Honourable friend, when he replies to the debate, to tell us as to how many of these safeguards are really intended to be illusory only for the purpose of hoodwinking the British public so that they may not raise any objection to the passing of the new Government of India Bill.

Now, Sir, my friend, Mr. James, yesterday gave us a very admirable piece of advice for which we must all be thankful to him. He said “ unite and get what you want ”. This reminded me of another observation made by that very frank and honest British Parliamentarian, Mr. Churchill, on the 27th June, 1932. He said this :

“ There is the Roman motto ‘ divide and rule ’ ; we have unanimously decided that that is an improper motto for us to follow. But do not let us fall into the opposite system—‘ combine and abdicate ’. That indeed would be a great danger and a very great error into which we might very easily fall ”.

Now, Sir, this is what he said on the 27th of June, 1932, and that, to my mind, furnished the key to the Communal Award that was to follow. If the Government really intended to hand over power, there was no necessity of any protracted controversy or conflict being continued between the Government and the Congress.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Nor was the Round Table Conference necessary.

Mr. K. C. Neogy : I admit, the situation facing us, particularly after we heard the subject matter of the coming motion for adjournment, is undoubtedly serious. I would not seek to minimise the seriousness of it, but what I maintain is that if Government were to continue their present

policy of repression with regard to the civil disobedience movement, that itself would create an atmosphere favourable for the nefarious operations of the terrorists, because, if the Government were to resort to measures characterised by high-handedness, injustice and oppression, if the Government were to continue to hit the Congressmen below the belt, that itself would alienate the sympathies of the right-minded section of the public who otherwise would have stood by Government, as we have, during all these years of criticism and opposition, and helped them for the purpose of carrying on His Majesty's administration in the country.

Mr. F. E. James (Madras : European) : Will my Honourable friend permit me to ask him a question ? Is he in a position to assure this House that should any of these Ordinances be withdrawn, the terrorist movement in Bengal would cease ? If he is not in a position to give that explicit assurance on behalf of the terrorists, what other remedy has he got ?

Mr. K. C. Neogy : I cannot claim to speak for the terrorists, but this much I can say that, if the Ordinances were to be dropped, that would certainly mean conciliation of the Congress. If the Congress were to be conciliated, and if the people of this land were to get what they really want, namely, control of their own affairs in the domain of administration.....

The Honourable Mr. H. G. Haig : Does the Congress stand behind the terrorist movement ?

Several Honourable Members from the Nationalist Benches : No, no.

Mr. K. C. Neogy : No, I do not say that for a moment. What I say is this, that those Congressmen, pledged to non-violence, would be the first to come to the assistance of Government for the purpose of putting down this violence.....

Khan Bahadur Malik Allah Baksh Khan Tiwana (Punjab : Nominated Official) : Do you think the Congressmen would be able to control the terrorists ?

Mr. K. C. Neogy : They would take all such measures that might be necessary for the purpose of controlling the terrorists for dealing most effectively with them, perhaps as effectively as the present.....

Mr President (The Honourable Sir Ibrahim Rahimtoola) : Having regard to the time that is being occupied in this discussion, the Chair would appeal to Honourable Members to abstain from interrupting the speaker in possession of the House.

Mr. K. C. Neogy : As I said, the situation is very serious in all conscience. In 1908, when a somewhat similar measure was under discussion in the old Imperial Legislative Council, Lord Minto said as follows :

“ I maintain that the strength of the British Raj has been built upon the justice of its administration. Heaven knows, it has been no weak rule, but it has been a just one, and it will continue to be so.”

Now, Sir, British bayonets will constitute a very poor substitute for British justice as a foundation for the British Empire in India. (Applause.)

Mr. Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, my spirit as a lawyer revolts against the Bill as it is presented

[Mr. Muhammad Yamin Khan.]

before this House, and, as a legal practitioner, I would never have accepted this measure if conditions in the country had been normal. But, Sir, my duty in this House is not that of a lawyer. Here my duty is as a representative of my constituency and as a well-wisher of my country and I want to see my country progress steadily towards the goal which we all have in view. I am not going to be led by my sentiments as a lawyer, but as a well-wisher of my country and as a representative of my constituency. Here in this House I have to voice the feelings of my constituency, and have to express what they think and what they want at the present time.

I would ask my Honourable friends not to ignore the circumstances that prevailed in 1931 which led to the introduction of the Ordinances. We are all aware that the Congress activities at that time were directed towards the civil disobedience movement, and a particular form of this movement manifested itself in the shape of a no-rent campaign in the United Provinces. The result was that a zamindar in Allahabad, when he went to collect the rent from his village, was murdered in cold blood by his tenants and five of his followers were also done to death. (*Cries of "Shame."*) The tenants were let loose by Pandit Jawahar Lal Nehru's activities and class hatred was created which led to bloodshed and it was feared that it might spread to the whole of the province. That was resented by all zamindars and all peace-loving citizens, and they feared that if reforms were ushered in now, they would not be worked in the proper spirit if class hatred was engendered in the province by these activities. We had similar activities of the Congress volunteers who excited the tenants not only in Allahabad, but in Rae Bareilly, Bulandshahr, Aligarh, Meerut and other districts. It was a terror for any zamindar to come into the village and collect rent. No body could dare to go into the village without being properly armed. I know that in my constituency of Aligarh the Congress incited the tenants of one of our very revered friends who had been a member of the other House for many years, Nawab Sir Muhammad Muzammilullah Khan. His tenants refused to pay any rent to him. An attack on him was particularly chosen, because he is the most influential zamindar of that district, and they thought that if they could reduce and divide the influence of the Nawab Sahib, they could easily deal with the other zamindars. That being the case, we knew that this activity spread itself in other districts as well. Every zamindar was living in a state of terror, and the result was, as all Honourable Members know, that the zamindars had to forego four crores of rupees from their rents last year. More than four crores of rupees had to be given up by the zamindars in favour of the tenants.

Mr. B. Das : Half of it belonged to the Government.

Mr. Muhammad Yamin Khan : Government only left one crore of rupees to the zamindars ; that means that the zamindars had to suffer three crores from their own pockets. I know that the low prices which are prevailing are to some extent responsible for it, but the low prices and unemployment in the villages were availed of by the Congress and they made the poor tenants their tools. The Congress volunteers were recruited from the superfluous population of the villages who could not find any employment and they were fed by the people who subscribed to the Congress

funds in order to subvert the administration. The people from the villages were brought to the towns and the people who were living in the towns subscribed money and fed them. For what purpose? Just to threaten people who wanted to carry on the normal and peaceful activities of daily life. We know what occurred in Benares, Cawnpore, Agra and other places, and this was the cause of it. It is not very long since the happenings at Cawnpore where peaceful citizens who wanted to carry on their daily normal life were threatened and not a day passed without their fearing that their shops would have to be closed or a *hartal* would be declared. These forced *hartals* were getting on the nerves of the people. The poor people were not able to earn their living on account of the *hartals*; even the *tongawallas*, who had not only to feed their horses but children, had to stop plying from place to place. These Congress volunteers were hired tools recruited from the superfluous population of the villages. This led to the most shameful atrocities in Cawnpore. They got degenerated into communal riots. Now, the Congress, which stands for doing away with communalism, is the chief cause of introducing communal riots. It was their activities which engendered communalism in the country. I have heard Honourable Members blaming the Government for their activities in setting up one community against another, but, may I ask them seriously to think—they are Indians and I am an Indian, they may tell whatever they like to the Europeans in their face, but they cannot convince me if they say that they are not responsible themselves to a great extent for creating communalism in the country. This thing was reflected in Bombay where, to our shame, none of our leaders had the courage to go and control the situation which they had let loose to the destruction of so many houses and so many families. What happened in Bombay? Every day people pounced upon each other, shedding the blood of the poor passers-by. If the Hindus caught hold of a Mussalman, they would kill him in the street—a man who had no concern whatsoever with them. If the Mussalmans caught hold of a Hindu who was a peaceful walker and who was going on his business, he was done to death. Is that the thing to which India aspires? Is this a thing which will bring peace and prosperity to the country? Do we not want to stop these things in future? Do we think that we can make progress and improve our country if these things are allowed to happen in our daily life? No Honourable Member will come forward and say that he likes these things. If the Honourable Members do not like this, then what is their remedy? We must rise to the occasion. It is no use saying that we are quite capable people. You must shoulder the responsibility when the time comes. Instead of that, we are shirking it. If we are going to shoulder the future Government of this country, we must show that we are capable of dealing with the situation in the future. It is no use talking idly. We must prove our fitness. It is the proof that counts, not words.

Now, Sir, I was surprised to listen to the debate during the last four days. It is in contradistinction to the debate we had on the 1st and 2nd February. When the Ordinances were introduced, my Honourable friend, the Leader of the Nationalist Party, moved a Resolution before the House on the 1st February. I shall read two paragraphs from that Resolution. They run thus :

“Whereas this Assembly condemns acts of terrorism and violence and disapproves of the policy of the no-rent campaign and similar activities and is convinced

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that it is the earnest duty of all patriotic citizens to join in the constructive task of expediting the inauguration of a new constitution ensuring lasting peace in the country :

This Assembly recommends to the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act ''.

This is the Resolution which my Honourable friend, the Leader of the Nationalist Party, moved ; and, in support of this, he said :

'' The first demand that the Legislative Assembly makes is that the Ordinances should be placed before them in the shape of emergency Bills for their consideration ''.

Again, further on, he said :

'' If the Government wanted to take power to cope with the political situation which they apprehended was bound to arise in the country it was their duty to bring those emergency Bills forward for the consideration of the Assembly. As a matter of fact, Honourable Members are aware that the Government did bring in a Press Bill for the consideration of this House and we gave them power of which the House is well aware. I therefore think that it was the incumbent duty of the Government to give to this House the opportunity which they ought to have had of considering as to how far these Ordinances should be enacted to cope with an emergency ''.

The Honourable Member went on supporting his demand for placing the emergency Bill before the House. Further on he said :

'' If the Government accept our Resolution, which I doubt they have only to place before us their Bills and they will receive that co-operation and support which this side of the House has never stinted. They know very well from the history of past measures to what extent we have responded to the call of co-operation from the other side and I say therefore that so far the Government are concerned, their hands will be strengthened by securing the co-operation of the elected representatives of the country in this House.''

Now, the Deputy Leader of his Party supported him in that demand and, while supporting it, Mr. Ranga Iyer said :

'' My Honourable friend and Leader, Sir Hari Singh Gour, in his very good speech, closely reasoned and legal speech, has proved, the Ordinances have no leg to stand on, hatched and hurried behind the back of this House and not brought forward before this House, they have no sanction behind them except the sanction of autocracy, of force, which is the foundation of British rule in India ''.

In other words, he was making a demand for placing these Ordinances before this House. Now, Sir, I will read one or two more passages from the speeches of other Honourable Members. Pandit Ram Krishna Jha, Mr. Hoon and Diwan Bahadur Harbilas Sarda also made a similar demand and said that if the Government did not wish to place this before the Assembly, the Assembly should be dissolved.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Did you support or oppose this motion at the time ?

Mr. Muhammad Yamin Khan : I opposed it as I am opposing the motion for circulation to-day.

Mr. B. N. Misra : (Orissa Division : Non-Muhammadan) : Do you realise the distinction between an emergency Bill and the present Bill to amend the Penal Code ?

Mr. Muhammad Yamin Khan : I will now read one or two passages. not from the Nationalist Group, but from the Independent Group. Diwan Bahadur Mudaliar said....

Rao Bahadur B. L. Patil (Bombay Southern Division : Non-Muham-
madan Rural) : Did he say that he would accept the Ordinances ?

Mr. Muhammad Yamin Khan : He said : The operative part of the Resolution is this and I want Honourable Members to concentrate their attention on it :

“ This Assembly recommends to the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances, as he may consider reasonable and necessary, and so on ”.

Mr. Gaya Prasad Singh : That does not mean that he necessarily supported the measure.

Mr. Muhammad Yamin Khan : Mr. Mudaliar further said :

“ I can only endorse the suggestion made by my friend humorously but which is not without an atom of truth in it. He said : ‘ The sooner this House is dissolved, the better for all concerned ’.”

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Need the Honourable Member read any more extracts ?

Mr. Muhammad Yamin Khan : I shall take your suggestion, Sir, and shall content myself with saying that the Leader of the Independent Party was also one of those who made similar demands. (*Some Honourable Members* : “ Read it.”) (*Sir Abdur Rahim* : “ It won’t suit your purpose. I guarded myself.”) Now, this Resolution of the Honourable the Leader of the Nationalist Party was put to the vote, and 44 Members of this House sitting on those seats who are opposing the motion to-day voted for that Resolution. Their support must mean support of the demand for placing before the House the Ordinances. (*Mr. Gaya Prasad Singh* : “ For consideration,—not for acceptance.”) I am not saying that. My Honourable friend need not interpret my words ; I am very careful in choosing my own words. This demand was a demand by 44 Members of this House that these Ordinances should be placed before the House for consideration, and although the demand was opposed by a majority comprising 62 Members on different grounds, substantially the demand remained. Now this demand has been acceded to to-day by the Government (Ironical Cheers from the Opposition Benches), in the shape of this Bill. I would like to read one sentence from the speech of the Honourable Sir George Rainy, who, then, speaking on behalf of the Government, said :

“ Some of us even had a recollection of the Press Bill in Simla and I think that if I had appeared with an emergency Bill before this House, the very first motion that would have been moved by my Honourable friend, Sir Hari Singh Gour, would have been that the Bill be circulated to elicit opinion thereon ”. (Applause.)

Well, Sir, that is exactly the thing that has happened. There was a demand that this Bill should be produced before the Assembly, but the very thing which had been prophesied by the Honourable Sir George Rainy has now happened,—in the shape of the demand to circulate the Bill to the country, to get the opinion of the people, as if the Honourable Members sitting here are not true representatives of the country themselves. (Hear, hear.) They have had sufficient time to study the question and to know the views of the country ; for what purpose, then, is it wanted to send it again for circulation ? If they do not want it, if they think that the Bill is bad, certainly they

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may say that they want to reject it *in toto*. They may come forward and say that what they urged on the 1st and 2nd of February was but a camouflage (Hear, hear.) : that they are not ready to shoulder the responsibility for which they were asking for ; that the so-called demands were never sincerely asked for ; that they never wanted what they pretended to urge ; that their sole object was to divert the attention of the Government. The Government knew the real tactics beforehand, they kept on, but now they have been thoroughly exposed. Now the very same thing is happening ! Sir, such tactics will never do for the Honourable Members. You have to prove to the world that you can shoulder responsibility (Hear, hear), that you are capable of shouldering responsibility, (Loud Applause.) (Mr. B. Das : " Wait and see.") Honourable Members will have to prove this—that they can do it. If they are shirking their responsibility, then, Sir, their case falls utterly to the ground. (Hear, hear.) And, Sir, if all Honourable Members choose to shirk their elementary responsibility, I shall nevertheless do my duty. (Loud Applause.) (Mr. Gaya Prasad Singh . " You will be duly rewarded for it ! ") Now, here and there, undoubtedly there is some provision in the Bill to which I cannot agree, and I will have my say at the proper time, but, this evil which is prevalent in India to-day, which is threatening the progress of the whole country, which is leading to the violation of individual liberty, which is going to molest and harass and intimidate peaceful people in their daily avocations, has to be eradicated with a strong hand, and that strong hand must come. (Hear, hear.) Sir, if the Government neglect their elementary duty in this, I say, the whole blame would lie on them for not doing their proper duty, for not protecting people who rely for their protection on the Government. (Hear, hear.) Is there a single Honourable Member in this House who can say that this evil, which is reported from Chittagong, and the kind of evil that we have seen in to-day's Press of the attack on Sir Alfred Watson in Calcutta in which ten shots were fired at him—is such a kind of evil to be tolerated ? and no action is to be taken to eradicate it. Do they want to kill innocent people, because a man happens to hold opinions which do not agree with yours ? Do you call this progress ? (Hear, hear.) Sir, Government and their servants have been blamed many times that they coerce people in order to fall in with their views, but may I ask if these violators of peace are not doing it ? Is this the way that India wants to rule herself ? Are you going to tolerate people being burnt and shot for not subscribing to somebody's views ? Shall we not be left peacefully to give expression to our views in this House ? Sir, if these dark forces are let loose, I say, we shall be having bombs in this House ? Do we not remember the occasion when even the sanctity of this House had been assailed ? Sir, I say, if these things go on unchecked, the India of the future will be a poor thing,—a country not worth living in. I shall say one word more, Sir, and it is this—that circulation has got no meaning even if the suggestion comes from my Honourable friend, Mr. Anklesaria, from whose speech I must say I could not gather whether he was really favouring circulation or passing the Bill *in toto* (Laughter.) If the Honourable Member wanted circulation only for this purpose that it may be delayed, and if that is accepted, then, I say, every true well-wisher of the country will repent, for the effect will be that the subversive

activities of the Congress and of the terrorists will go on unchecked for some time longer. I have got no quarrel with those who say that the Congress and the terrorists are useful for the country : they must have their own say : but if any Honourable Member feel that these activities are a hinderance to our real progress and to peace and harmony in the land, then certainly they will not have to rise to the occasion and vote for reference of the Bill to a Select Committee. You can amend the Bill, Sir, wherever you find it inconsistent with the principles of law. With these words, Sir, I support the motion for reference to a Select Committee and oppose the motion for circulation. (Loud and prolonged Applause.)

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Mr. President, the function and duty of a non-official Member of the Executive Council, either of His Excellency the Governor General, or in

12 Noon.

any Local Government, are, I take it, to explain and elucidate what may be called the non-official point of view to his colleagues in the Government and, on the other hand, to try to explain to the people at large that point of view, which forfeited by his experience of official affairs, he is able to present to the country. I shall discharge that function to the extent that it is permissible for me to do subject to time-limit which is inexorable. And, in so doing, I have, as I stated on a previous occasion, the additional advantage that in a few hours I shall be able to speak wholly as a non-official and in what I say now let me be understood as saying nothing which I shall not repeat a few hours later as a non-official. (Applause.) Mr. President, what is the present posture of affairs ? There is a tremendous amount of work before this country. The magnitude of the work, the complicated nature of the task, the intricacy of the problems confronting us cannot be gainsaid. And what is that work ? That work is to make of this great and ancient country a country to be proud of, a country fit to live in and die for. It is in pursuance of that desire, it is because of our pursuit of that ideal, that we are asking for constitutional progress and for constitutional self-realization. Politics, we must, however, admit, is a means to an end ; and let me say, Mr. President, that the experience that I have gained in the last few months in a department of activity with which I was not connected in my previous career has taught me one thing if it has taught me anything, namely, that a large leeway has to be made before India can come to her own in the matter of financial and economic rehabilitation and commercial evolution. It must be granted on all hands that to-day the great need for India is economic revival and economic progress, and political security, political rehabilitation and political self-determination are a means to that end, namely, happiness, peace and prosperity of the masses of our countrymen. That is why the programme before this country is and should be two-fold : firstly, increasing the wealth of this country by every means that can make India a great and self-reliant entity in the commercial and economic brotherhood of the world and, secondly, the realisation and unfolding of the inner spirit of our specific culture. It is because some of us feel that political growth and political advancement are necessary to bring about these results that some of us have worked in the political field. Politics, thus, is not an end in itself, but a means to a great end, namely, the happiness of the nation at large. That being granted, what do we find in this land of ours ? We are face to face with a very difficult

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political position and we are at the cross roads so far as constitutional progress is concerned. Speaking at this moment I should be omitting my duty if I were not to utter one word of congratulation to those representatives of various communities who have taught us that even in the India of to-day, with all its clashes and communal and racial bickerings, it is possible to unite and arrive at a largehearted settlement. I am speaking in the presence of the representative of the depressed classes who has worthily played his part in the solution that has recently taken place. (Applause.) Is that not a lesson and shall it not be a warning? Is it not a lesson to us that we can and shall come together for the purpose of obliterating our differences and making ourselves a united body? Is it not also a warning that we should not let the opportunity slip? Now, what is the relevance of all these remarks? I say this, because of two reasons: I hold, in the first place, that constitutional progress and the constitutional realisation of our dreams and ideals will come only with a harmonious and united people working together for the common cause. That union will be irretrievably and irremediably jeopardised if occurrences like those of which we have had recent experience were the order of the day. I am not going to make capital out of the temporary, let us hope very temporary, madnesses that are overtaking the youths of the country. But let there be no mistake about this, namely, that unless there is comradeship, unless there is fellow-feeling between the Englishman and the Indian in this country, between the Hindu, the Mussalman, the Sikh, the Parsee and every community, neither shall we get a worthy and satisfying constitution nor shall we retain its advantages when secured. (Hear, hear.) It is because, Mr. President, of these considerations that I am rising in my place to say that, in the language of my Honourable colleague, Sir Brojendra Mitter, there is a great evil which has to be combated and the removal of which is a *sine qua non* to the achievement of our hopes. (*An Honourable Member* : "What is that evil?") Mr. President, my Honourable friend asks me "What is that evil?" Is it or is it not a fact that to-day a movement which began as passive resistance has become civil disobedience and has often degenerated into forms indistinguishable from direct and violent action? Let me be perfectly clear about it and I am indebted to my friend, Mr. James, for having brought the point out on a previous occasion. There is a clear distinction which can easily be drawn between the passive resistance such as was originally practised by Mr. Gandhi and the recent manifestations of civil disobedience. Whether passive resistance is permissible or allowable, is beyond the scope of this particular debate and I do not propose to enter upon that task, though I am naturally and by tradition a strong upholder of the laws of the land. But I assert that the forms which civil disobedience has taken are such that not only this Government, but the governments of the immediate future and the governments of the distant future will have to fight them.

Now, let me turn to this Bill which is before the House. Is it or is it not a fact that there has been tampering with public servants? Is it or is it not a fact that there has been dissuasion of enlistment into services? Is it or is it not a fact, is it or is it not abundantly provable by unimpeachable evidence that public servants have found that their life was rendered unendurable, because they could not get the bare necessities of life in certain localities. Has there or has there not been

boycotting of public servants as a campaign? Is it or is it not a fact that picketing is pursued under certain conditions which makes the lot of both the picketer and the picketee a burden on their respective lives? Has all this not been the case? Is it or is it not the case—I say it with humiliation, I say it with shame—is it or is not the case, that young boys who ought to know better, young boys whom the great Leaders of the Congress themselves exhorted to stick to their studies until they were able to think for themselves and to act on their own responsibility—is it not a fact that young boys are utilised for propaganda and for direct action which are detrimental not to the young boys alone, but to their parents and to society at large. Has it not been actually preached that studies are immaterial and insignificant by the side of the waiving of flags and picketing? Is it or is it not a fact that women are being employed for purposes which are foreign to their great purpose in life? I have all along been a champion of the cause of women and, if I may say so, I am one of the feminists. But, as regards some aspects of the political activities of a few women, there can be no two opinions. Using argument and discussion and even suffering for the sake of political ideals is one thing, but lying down in the street in front of a moving car and hurling diatribes before a shop are beyond the bounds. Does this kind of thing happen, or does it not happen? If it does happen, is it to be eradicated or not? Mr. President, is it or is it not a fact that there are unlawful associations in this country? Is it or is it not a fact that they are somehow, mysteriously, but definitely and indubitably, supplied with large funds? Do they not operate on these funds? Is it too much to ask that the possibility of operating on those funds should be checked? I am saying all these things not with the view of casting reproaches, because I feel the reproach, if any, is on all of us. I am saying this, because no one, who is responsible for the welfare of this country, can omit to bear these things in mind or to feel the shame of the recent occurrences. This Bill is an attempt to remedy these things in the best way which has occurred to the mind of the Government. My Honourable colleague, the Law Member, has stated that ample opportunities will be given for discussion of the arguments put forward from the opposite Benches. It has been suggested in the course of the debate, for instance, that, after all, as we hope and as we dare to aspire, this would be a temporary phenomenon. It has been suggested that if self-government were established in the country on lines acceptable to the thinking and rational portion of India, then these evils will disappear automatically. No one would welcome the disappearance of the movement more than those on the Treasury Benches of to-day and to-morrow. But, Mr. President, we have to deal with the trouble that undoubtedly exists and so long as it exists. If the point is that an emergency should be met by what may be called a temporary enactment, that is surely a matter which it is within the ambit and scope of the labours of the Select Committee. It has been stated by my Honourable colleague, the Law Member, that it will be open to the Select Committee to consider this alternative and, I am sure, my Honourable colleague, the Home Member, will not think I am taking too great a liberty when I say that knowing him as we do and knowing that he possesses those qualities of political compromise and accommodation in the highest sense which have characterised his career in this House, the Honourable the Home Member will seriously consider propositions for the purpose of making this a temporary measure, temporary

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in this sense, namely, that it will enure so long as the evil exists and so long as it is a menace. What the period is, is a matter for discussion, and for harmonious adjustment. I come now to the next point, namely, that it is no use running away from the fundamental facts of the situation. The appeal was actually made, "why not govern by Ordinances?" "Why don't you go on further with that process?" I do not wish to utilise the opportunity which has also been afforded by my Honourable and learned friend, the Leader of the Nationalist Party, who himself asked that such a Bill must be brought forward. I am not going to content myself with that. There is a higher and more compelling aspect which I would like to put before the House and it is this. The making of an Ordinance is a responsibility of the Governor General. If we are satisfied that there is this evil, if we are satisfied that that evil must be grappled with, I think it is up to us to take that responsibility on our shoulders away from those of His Excellency the Governor General. (Hear, hear.)

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : May I ask why this has not occurred to the Government when they promulgated the Ordinances for the first time?

The Honourable Sir C. P. Ramaswami Aiyar : For the first time when Lord Irwin issued the Ordinances?

Mr. C. S. Ranga Iyer : Or for the second time?

Mr. Gaya Prasad Singh : They thought they would be able to crush the Congress with the Ordinances in a short time.

The Honourable Sir C. P. Ramaswami Aiyar : I hope the idea which underlay the Congress will not be crushed. It will be a sad day if the Congress is crushed or if anybody else is crushed, because what is the advantage of crushing the Congress to anybody? I wish to put the matter, Mr. President, in this way. These remarks are so often used, namely, crushing the Congress. We may crush individuals who compose or who form a part of the Congress, but ideas will not die, (Hear, hear) and, if the Congress stands for a legitimate, if it stands for a righteous, fruitful and energising ideal, it will not die (Hear, hear), but if the Congress stands for a deleterious ideal or standing for a rightful ideal, at the same time, allows or encourages deleterious practices when formulating and carrying out that ideal, to that extent the Congress will be crushed and must be crushed. If the Congress stands for complete self-government within the Empire, it will last and must last. If it stands for communal and racial harmony and uplift, it will and must be a great force.

Mr. C. S. Ranga Iyer : May I enquire why the Government did not come to us before the termination of the first Ordinance? Why should they come to us at the fag end of the third Ordinance and not just before the termination of the second Ordinance?

The Honourable Sir C. P. Ramaswami Aiyar : Mr. President, that matter has been explained by my Honourable colleague. It was explained before on the floor of the House. They were sudden emergencies which demanded sudden action, and, it is because we feel that there is

comparative quiet in the country, that we come before the Legislature with this Bill. At one time it was practically impossible to turn round and deliberate, because the onslaughts were many-sided and were furious and intense. At that time, the Ordinances were promulgated. But, to-day, thanks to these Ordinances—here again, I am not rejoicing over that, I am lamenting over that—but thanks to these Ordinances, by virtue of the operation of these Ordinances, the old manifestations have largely disappeared, and, I think, the atmosphere is apt for the consideration of those legislative measures, the importance of which has been stressed not only by the interruptions, but by the general course of the debate.

Sir, I do not wish to say much more, but I wish to end with two observations. This Bill, it will be noticed, manifests that where local needs and local remedies are concerned, no resort will be had to all-India legislation. It is only to meet what one may call the all-India aspects of the civil disobedience movement that this Bill has been framed. The second remark which I wish to make before I conclude is this, that there have been great countries outside India which have suffered and are suffering from the same trouble which is confronting us. To-day in the United States, which many regarded as the home of democracy and the home of freedom, they are lamenting the growth of a complete lack of respect for law and order. They are driven to talk of the loosening of the bonds of society. It is, therefore, not a limited evil ; it is a widespread evil ; and that evil, I submit, will have to be fought and eradicated. To the extent of the success with which we grapple with that evil, we shall deserve and retain that heritage which is ours and which we are striving to regain. (Applause.)

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadan Urban) : Sir, I have been patiently waiting for the last three days to understand fully what the Government case is and I think I know now, at any rate partially, what their case is. The last speaker, the Honourable the Leader of the House, has spoken with an amount of enthusiasm for this Ordinance Bill which, I must admit, has taken me entirely by surprise. I will not accuse him of not having studied the Bill carefully, and an astute and able lawyer as he is, I am certain that he understands all the implications of it. He has made a very eloquent speech, he has delivered a great oration, but I am afraid he has not tried in the least to meet any of the obvious objections to this very serious measure.

Sir, a great deal was made of the debate at the last Delhi Session upon the Resolution moved by my Honourable friend, the Leader of the Nationalist Party. We demanded then that the Ordinances should be placed before the House in the form of a proper Bill so that we might consider it and pass it if we found it reasonable and confined to certain specific ills. My friend, Mr. Yamin Khan, quoted certain passages from some of the speeches delivered on that occasion and he was about to quote from my speech when he desisted even though I pressed him to do so.

Mr. Muhammad Yamin Khan : I took the hint from the Chair.

Sir Abdur Rahim : Sir, you will pardon me ; I am not in the habit of quoting from my speech, but on this occasion I think it is necessary that I should point out to the House the attitude which I took up on that

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occasion, and which I believe was the attitude of all Members on this side of the House. I said :

“ If the law is defective ” (*meaning the ordinary law*) “ in any particular respect in order to meet certain evils, surely they can draft a proper Bill and place it before the House with proper provisions to meet the situation. Why should not Government do that ? The only inference we can come to is that their intention is not merely to strike at a certain mischief or to suppress certain evils ; the Government really want to go further.”

Then, Sir, I also said :

“ I ask Government with all respect to seriously consider the position, and if they really believe that there are certain movements, I believe there are, which require to be checked, I believe it is possible to frame reasonable laws to be administered by the ordinary courts of law in order to check and eradicate those movements.”

Sir, that was our attitude. What did Government do at the time ? What did my Honourable friend, Mr. Yamin Khan, do ? They opposed our request and defeated us ; and now he wants to throw that very Resolution in our face. Sir, in saying this I do not agree with those of my friends who say that no such Bill ought to have been brought before the House or that Government acted wrongly on this occasion to bring in this Bill. As regards the Ordinances, Sir, it is well understood that His Excellency the Governor General can pass an Ordinance in order to meet a particular emergency. He has no other powers. The function to legislate and make laws for this country is our responsibility. He can only meet a particular emergency by a particular Ordinance. That emergency over, he has no other function left in the matter of legislation. Sir, I do believe also that there is no limitation under the law to his passing more than one Ordinance, one after another, if there are emergencies. I do believe, however, that it was the intention of the law-giver, those who enacted the Act of Parliament, that emergency must be understood in its ordinary English sense. That is to say, if the ordinary body, whose function and responsibility is to enact laws, is not meeting at the time and is not available in order to enact the necessary law to meet a particular emergency, then and then alone His Excellency the Governor General, in order to save the situation, can pass an appropriate Ordinance. It is not, therefore, the intention of the Government of India Act that while there is every opportunity for the Government of India to bring a proper Bill before this Assembly, the Governor General should pass an Ordinance to take the place of a regular enactment. Sir, if the Government failed in their duty to bring a proper measure before the Delhi Session, and if they are trying to rectify that mistake now, we cannot complain of that. They have introduced a measure which they consider to be proper and it is for us to say whether in our judgment, it is a proper Bill or not. We never consented to abdicate our functions in favour of Government.

Sir, what is the Bill that is brought before us ? It is a Bill to replace the Ordinances. The Ordinances being an emergent measure, this ought to be an emergent measure also. Has it been brought before us as an emergent measure to meet only an emergency, unless by emergency is understood something perpetual and eternal ? Will the Honourable the Home Member say that the condition of India is such that we must have emergency measures for all time ? Is it a chronic disease of India ? It has been suggested by the Honourable the Law Member and, following

him, by the Leader of the House, that we can amend this Bill in Select Committee. But the two things are totally different. The ordinary law of the country exists for the purpose of meeting ordinary normal conditions. An emergency measure, as the phrase implies, means that it is needed for only a particular occasion to meet a certain specific evil. This Bill is a mere copy of certain provisions of the Ordinance which was passed by the Governor General in exercise of his prerogative. But we are asked now to add to the ordinary criminal law of the land, provisions which, I submit with the entire confidence to the House, are absolutely inconsistent with the principles of criminal jurisprudence, even as prevalent in this country. The importance of this measure, the serious character of its effects on the lives of the citizens on their most cherished rights, on their rights of personal protection, and personal liberty, on their rights of property, on their rights of association are all of a character which cannot be said to be at all slight or which can be brushed aside as something unimportant. Now, a measure of this magnitude and importance and seriousness can only be passed by us if we find it absolutely necessary to meet a condition of things which exists at the present moment and if we had the support of public opinion. As regards public opinion, it was admitted by the Honourable the Home Member who presented his case in a way which has been fully appreciated by everybody on this side of the House—he himself admitted that it is no use sending the Bill for circulation, because, as he said with a smile, “We know what the verdict will be of the public”. I ask him, as an Englishman whether that is not enough to dispose of this Bill altogether. If public opinion is against it, does he expect us to defy public opinion? We are here in order to represent and voice public opinion, to din it into the ears of the Government; and are we the persons to be asked to act contrary to public opinion? (Hear, hear.) Is not this enough to show that this measure is wholly unjustified and cannot be forced down upon us? The officials are in a different position. I understand that, they can defy public opinion and they have often done it. But our position is very different. So, I say, we are not in a position to support this measure, as admittedly public opinion is hostile to it. This is one conclusive answer. Another conclusive answer is that Government have not proved their case. I know a great deal has been made of the terrorist outrages. Every one of us condemns them, we condemn them most strongly, and I think every one will believe me that I can have no sort of sympathy with any of the things that are going on. Now, what does the Statement of Objects and Reasons say? Is it to suppress terrorist outrages? No. Is there a word in the Bill, is there any provision which, any one can honestly say, would tend to suppress or abate these brutal insensate crimes, crimes against society, crimes against good order and Government? There is not one provision like that; it is not within the scope of the Bill at all. What is the good of drawing a red herring across our path? It is nothing but drawing a red herring across our path. There is no such provision in the Bill. If I thought for one moment that this Bill would go in any way to any extent to deal with these crimes, I should wholeheartedly give it my support. But there is nothing of the kind. As a matter of fact, it does not purport to deal with terrorist crimes.....

The Honourable Sir Brojendra Mitter (Law Member) : Nobody suggested it. My Honourable friend is raising a phantom and fighting it. Nobody suggested that this Bill was intended against terrorism. The Home

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Member made it perfectly clear that this Bill was intended to combat the civil disobedience movement.

Sir Abdur Rahim : Only my Honourable friend, the Law Member, has forgotten what his colleague, the Home Member, in his speech said, that there are triple evils to be combated : one is terrorism, one is civil disobedience and one is Communism.

Mr. K. C. Neogy : That was with special reference to the Press provisions in the Bill.

The Honourable Mr. H. G. Haig : On a point of explanation : that was a general review of conditions in India ; and, with regard to the particular point raised now by Sir Abdur Rahim, I did say that the provisions with regard to the Press would help to restrain the terrorist movement, and so they will.

Sir Abdur Rahim : Well, the Honourable the Home Member is apparently not in agreement with the Honourable the Law Member. Any law in some way or other tends to discourage crime : is not that so ? Not only criminal law, but civil law. But this Bill, I agree entirely with the Honourable the Law Member, is not directed at all against terrorist crime and will not affect it. I understand the Bengal Legislative Council has already passed an Act in order to deal with terrorist crimes, and I do hope that they will succeed in suppressing and stamping out once and for ever all such outrages.

Then, as regards Communism, is there any provision in the Bill which deals with Communism ? Communism, if it is to be dealt with, has to be defined first of all. Is there any definition in this Bill of Communism ? No. As a matter of fact, very few of us understand what is meant by Communism, very few of us understand what Communism is. We all have very vague ideas about it. I know that some eminent thinkers in England say that the whole world is tending towards Communism, and that it is the only solution for the present economic problems. But, Sir, if the Bill was intended to deal with Communism in any way, there ought to have been first of all a definition of Communism, there ought to have been proper provisions to deal with Communism, but there is no such thing.

The Bill is entirely directed against what is called civil disobedience, which again is identified with the Congress. I speak subject to correction by the Honourable the Leader of the House, because he seemed to detach the Congress from civil disobedience....

The Honourable Sir C. P. Ramaswami Iyer : As an old member of the Congress, I may say this that we in Congress, when Congress was, according to us, a great and beneficent power, had not then wandered into the region of direct action or civil disobedience. What I meant to say was this, that the old Congress ideal is very different from recent Congress practice.

Sir Abdur Rahim : Sir, our ideas do not differ very much. The ideals on this side are the same, if you are to believe the Treasury Benches, it is also the ideal of the Treasury Benches—Responsible Government in India for Indians. Now, let us see what civil disobedience means. I wish civil disobedience had been defined....

Mr. F. E. James : I defined it.

Sir Abdur Rahim : But I am afraid my Honourable friend is not the Bill. (Laughter from the Nationalist Benches.) I am only criticising the Bill. Sir, as I understand the phrase, civil disobedience means disobeying or violating the law....

Mr. F. E. James : For the purpose of coercion.

Sir Abdur Rahim : It does not matter what the purpose is. If the law is disobeyed, there is the sanction forthcoming, there is the civil sanction as also the criminal sanction. So long as law is there, it cannot be violated by any one with impunity. He either has to pay damages to somebody or has to pay fine or go to jail or even undergo the sentence of death. Now, what is the Congress creed ? Civil disobedience. What is the procedure they adopt ? They openly violate certain laws, not the law against theft or robbery or anything like that. They openly defy certain of your laws ; they even do not put in any defence. Is that not the fact ? They are only too glad to be arrested and sent to jail. Their one idea or policy, whether you agree with them or not, is to fill the jails. They say " You cannot find jails enough for us, you cannot feed us in jails all the time ". That is their policy. They want to paralyse the Government in that way, that is to say, by creating financial difficulties—so many idle mouths will have to be fed, Government will have to construct new jails. That seems to be their procedure, they want to create public opinion against the Government by compelling the Government to send them to jails. That is the very thing they want, and the Government want to help them in that, by sending more people to jail. I want the Government seriously to consider this. If they are going to make laws of this nature, which are undoubtedly very stringent and inconsistent with the principles of law under which we have been living so long, then what are the Government doing ? They will be creating public opinion in favour of the Congress. The Congress will say : " Government are not satisfied with sending us to jail, but they are making laws more strict for those who do not belong to the Congress—and so come and join the Congress ". I am afraid, Sir, the Government are enacting a measure which is against public opinion, which certainly cannot be justified like the ordinary law under which we have been living for centuries. Government are abolishing the rule of law for which, even Sir John Simon said, we Indians ought to be thankful to the British Government. When my friend, the Honourable the Law Member, was speaking, I ventured to interrupt him and asked him what the principle of the Bill was—he said civil disobedience....

The Honourable Sir Brojendra Mitter : That is a travesty of what I said.

Sir Abdur Rahim : To defeat civil disobedience....

The Honourable Sir Brojendra Mitter : No, Sir ; that is not....

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : He is not giving way.

The Honourable Sir Brojendra Mitter : What I did say was this, that this Bill was intended to fight the present day manifestations of the civil disobedience movement. There are particular manifestations of the civil

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disobedience movement, and it is to fight those that this Bill has been brought forward.

Mr. S. C. Mitra : Very nice discrimination.

The Honourable Sir Brojendra Mitter : That is the principle. (Loud Laughter from the Nationalist Benches.) Loud laugh spoke the vacant mind.

Mr. K. C. Neogy : The Honourable Member is losing his temper.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order.

Sir Abdur Rahim : I did not want to say anything which would ruffle my learned friend. I was only trying to meet some of his arguments, but I was not....

The Honourable Sir Brojendra Mitter : Do it fairly.

Sir Abdur Rahim : I think he has made his case a little bit worse. This Bill is directed not against any particular acts of civil disobedience, but against the movement itself, not against any particular manifestations or against any particular acts, but against the whole movement itself. That is the very purport of the Bill. Those who framed this Bill knew the difference between civil disobedience movement and certain acts which come within the ordinary law. The object was to strike at a certain movement, and all the provisions tend towards it, and not against any particular manifestations or acts. Indeed my contention is that you ought to confine yourself to certain specific acts, because, after all, it is by punishing such acts that you can meet and suppress a mischievous movement.

Now, Sir, I also ventured to interrupt with my remark that most of the evils that are sought to be met by this measure can be met by the ordinary law. There may be one or two provisions in the Bill, just one or two clauses which perhaps supply a lacuna, and if they are to be retained, they may be retained with amendments ; but if you take the rest of the provisions of the Bill, I say that they are amply provided for in the different Acts—the Penal Code, the Criminal Procedure Code, the Police Act, the Press Act, and other Acts. Now, there is provision in the Penal Code against conspiracy. Any two persons or more conspiring together to commit an illegal act—mind you, not even an offence, but an illegal act—are guilty of a conspiracy and liable to punishment. Therefore, if there is a body of persons whose object is to commit illegal acts, to violate the law, they would come within the definition of criminal conspiracy and become liable for criminal conspiracy. Then we have a number of sections, a whole Chapter devoted to what is called abetment. If any person abets any one to violate the law and, thus, to promote civil disobedience movement, or abets an illegal act in any way by words or gestures, then, in that case, there is the Penal Code, and the abettor is punishable. There are also sections which are often utilised in dealing with what is known as sedition in this country, and, by amendments, as my Honourable friend, the Law Member, is perfectly aware, that definition has been considerably widened and the latest interpretation of the Courts almost amounts to this that if you do any act which is likely to alienate the affections of the people

towards Government, then, in that case, you are liable for sedition. Again, we have got provisions in the existing law dealing with class hatred. If anyone does anything by which class hatred is aroused, then, in that case, you have a provision dealing with it. Again, you have the law against unlawful assemblies. Any assembly which has for its object disturbance of the peace or commission of any crime is an unlawful assembly and is punishable under the law. But there is another section which is still more important and that is section 144 of the Criminal Procedure Code. The Honourable the Law Member is fully aware that the first non-co-operation movement was dealt with not under any Ordinance, but under the ordinary law, and the object of the Congress to fill the jails was amply fulfilled. What was that movement? That movement was not essentially different from the present civil disobedience movement. How was that movement dealt with? By the ordinary law, as I have said, and mainly by section 144 of the Criminal Procedure Code. Therefore, I say that there is nothing in the civil disobedience movement which cannot be checked or which cannot be punished by the ordinary law.

But, Sir, that is not really the scope and effect of the Bill. I will not dive into the motives of the Government; I never like to impute motives to any one, but what is the scope and effect of the Bill? The scope and effect of the Bill is this, the Government want to set up executive authority in place of the ordinary Courts. They want to remove the jurisdiction of the Courts in dealing with certain offences. They want to substitute executive action for the procedure of the Courts. They want to place the ordinary rights and liberties of individuals at the mercy of the executive. Government also want to make the existing laws more stringent. They want to vest more power in the police. Offences which have hitherto been non-cognisable and bailable, Government want to make them cognisable and non-bailable, that is, offences for which the punishment is a fine, although, under the ordinary law, all offences of that class, at least generally speaking, are non-cognisable and bailable. I have gone through the list and I find that for most of these offences which are now made cognisable and non-bailable, the punishment is fine or imprisonment. So, a person who commits an offence of that nature can, under the Bill, be at once arrested by the police, kept in custody, although at the end he may be acquitted or has to pay only a fine. This is a very serious departure, and I do not find any reasons given, excepting that it is in the Ordinance,—no other reasons are given why Government should change the law in this respect.

Sir, I find that the Bill also purports to create certain new offences. Clause 2, for instance, deals with what is called dissuasion from enlistment. Now, that might very well be made an offence, but has a case been made out to that effect? Has the Honourable the Home Member been able to give us statistics to show how many men have been dissuaded from enlisting in the military service or in the police service? If, as a matter of fact, the activities of the Congress or of the promoters of the civil disobedience movement had affected enlistment in the army, then, I should say, such a provision is perfectly justified. On the other hand, one Honourable Member here has offered to supply five thousand recruits, another, ten thousand, and again another, one thousand, and I myself believe that there is no lack of recruits either for the army or for the police force.

[Sir Abdur Rahim.]

I believe it was my friend, Mr. Shah Nawaz, who pointed out that thousands and tens of thousands of people would like to be employed in either of these forces. If you take the educated classes, many of whom are implicated in the civil disobedience movement, what was their answer to the invitation of the army authorities for admission to the new military college? I believe, if my memory serves me aright, Government received ten times as many applications (*An Honourable Member* : " 30 times ") as there were vacancies. What are you striking at then?

Mr. S. C. Mitra : A shadow.

Sir Abdur Rahim : My friend on my left says, at a shadow. I entirely agree.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order. order. I should like to know how long the Honourable Member is likely to take. The Honourable Member is aware that there is an Assembly social function to-day and, unless he is likely to finish in a few minutes, I should like to adjourn the House now.

Several Honourable Members : Adjourn.

The Assembly then adjourned for Lunch till Thirty Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Sir Abdur Rahim : Mr. President, I have just pointed out that clause 2 is absolutely superfluous and not wanted. Similarly, with clause 3—that is, the clause dealing with tampering with public servants. Here again, if the Government wanted our support, they could easily have given us facts—not general statements that some Congress speakers have said this or that—facts, showing that a number of public servants, an appreciable number of public servants, have failed to do their duty or have resigned Government service because of dissuasion by any one. If they had given us such facts and figures showing that a substantial number of public servants have really been tampered with, then, in that case, there would have been justification for a clause of this nature. But, what do we find? The public services, Sir, are full to overflowing, and we know also that there are numerous applications every day to fill the least important posts in public service. I have been trying to get at the mentality of the Government in order to find out the reason why they want us to enact these two clauses. Sir, these clauses, if accepted by the House, would imply that a serious attempt is being made to dissuade people from entering the police service and enlisting in the army or, when they are there to induce them, to fail in their duty. Sir, there being no evidence of that—no evidence worth speaking of—all I say is that if these two clauses remain, then that would mean a serious reflection on the country. Sir, it may be very well for purposes of propaganda to tell the world : " Look at the state of things in India. The army is being tampered with, the

public services are being tampered with, the whole country is in danger''. Now, Sir, if that were a fact, there would be no hesitation at all on our part to make provisions like this on the Statute-book. But the facts being otherwise, just the contrary, I say, we ought not to be a party to placing any such provision on the Statute-book. We should otherwise be saying to the world : " Yes, the state of things in this country is really in a very perilous condition "—which is not the fact. The public services are not in danger, and the army is not in danger. As a matter of fact, Sir, the Congress, so far as we are aware, have not carried on any active propaganda against the public services nor dissuaded people against entering the public services. Some isolated speakers might have spoken words to that effect, but they have not produced the least effect on the public services or on the army or on the police.

I need not deal with clause 4 at length, because it has been amply dealt with. It is a most dangerous clause ; it infringes people's rights of property. If I have a house, is there any reason why I should be compelled to let it to a particular person, because he happens to be a public servant ? We know that, as a matter of fact, many persons cannot get houses in a big city like Calcutta. Surely, a public servant should not be placed in a position which would enable him to invade the property of an ordinary citizen. As regards the supply of services. Sir, in the twentieth century when you have motor services, when there are plenty of tinned provisions which people can carry from place to place and when, we have far better roads than we had, before, surely to have an enactment like this, which is an invasion on peoples' rights of property cannot be justified. It may mean a little extra cost in carrying provisions to Government servants. That is another matter. But surely we ought not to punish the people in the way that is proposed to be done by this clause and every one knows in this House, who knows anything about the state of the country, that a law like that is very liable to be abused.

Sir, as regards the Criminal Law Amendment Act, we know the history of that Act. It was enacted at the time of the anti-partition agitation and we know what happened then. As if that Act, as it stands now on the Statute-book, was not enough, Government seek to add provision after provision which would make it very difficult, indeed, for the people to live in this country. The jurisdiction of the Courts is to be taken away. Any association may be declared unlawful by executive authority. Once it is declared unlawful, any Local Government, any executive authority, may notify a particular place, and then any property found therein is to be confiscated, and no appeal lies. This is a very serious matter, and I do not see how we can be asked to accept it. Sir, my complaint against this Bill is this. You are adding extremely harsh provisions to the ordinary criminal law of the land already very stringent and we all have to live under it. Because a certain class of people are defying certain laws, you cannot take away the jurisdiction of the Courts under the law which gives protection to the people's personal rights, rights of association and the rights of property. You cannot take away all those rights, simply because a certain class of people violate certain laws. If you employ the machinery of law, as it is, against those people, nobody can complain against that. But, why go further ? Why punish millions of people who are absolutely innocent ? The answer, I suppose, would be

[Sir Abdur Rahim.]

that the executive will exercise discretion in applying the law. That is all very well. If that be enough, then abolish all the Courts of law ; abolish all law. Leave it to the executive to administer the country without any law. I daresay, in the executive there are men who are highly civilized and highly educated, and knowingly they will not oppress the people of the country. But that is not the point. We cannot consent to live under this kind of law which empowers the executive to do whatever they like. It not only so empowers the executive Government, but all sorts of public servants, men who are not even public servants, men who are classed as public servants only for this purpose. We do not know, but they may be favourites of the executive who will be given powers and privileges which are denied to any other law-abiding citizen. Sir, this is a very serious measure and, in order to justify it, we ought to have had before us far greater evidence than has been supplied. We are repeatedly asked : what is your positive suggestion ? My suggestion is that Government should administer the laws that are there properly and, if they do that, I am perfectly sure that the position will be no worse than it is at present and in fact it will improve. These Ordinances cannot in any way improve the position. They will make the position of the ordinary citizen much worse without helping Government in suppressing what is called the civil disobedience movement. Sir, I do not want to make any reflection upon the administration, but I do think from what I have seen and observed that the laws are not properly administered. If they were properly administered, if they were fully taken advantage of, then there is no offence which this Bill wants to strike at which could not be dealt with under the ordinary law. Take, for instance, the Press Emergency Powers Act which is now sought to be amended and amplified. Sir, the House will remember that there was very strong opposition to this measure when it was passed last year and it was only by a few votes that Government were able to carry it. That Act in itself is of an extremely drastic character and Judge after Judge of different High Courts have commented upon it. If, after applying that law to the newspapers of the country, Government have not been able to achieve their object, then, I say, these additional provisions, which are sought to be placed on the Statute-book, will not help Government any further. I know there are newspapers of all shades of character, European as well as Indian. As a matter of fact, they do indulge in writings at times which are objectionable from many points of view. But, if there are to be newspapers at all, if there are to be comments on public affairs from day to day, I do not know of any law short of strict censorship which can regulate the writings in the way desired by Government. Sir, I do not wish to take up the time of the House any longer. Having considered every provision of the Bill before us and compared it with the existing law, my deliberate conclusion is that, barring perhaps one or two provisions, the rest of the measure is highly objectionable and should never be passed into law. I do not propose to dwell on the question of constitutional advance as a remedy for civil disobedience. The position is that the Congress, in practising and preaching civil disobedience, has a certain political objective. That objective, in its extreme form, many of us on this side of the House do not sympathise with, but we are all agreed that there should be and there has to be a substantial advance in the direction of responsible

Government. Sir, let us hope that, as a result of further deliberations in London, we shall have a proper constitution, a constitution which will work, a constitution which will enable whatever political and constructive talents there are in the country to have full scope and opportunity to do something for the uplift of the people. I have often heard it said that the British here are the guardians of the masses, they are their trustees. So far as the educated section of the community is concerned, I do admit that we are under a debt of obligation to the British for western education which has been inaugurated in the country. This recognition is due to them. But I must frankly say that so far as the masses, so far as the general population, so far as the millions are concerned, the British in India have done nothing to uplift them from their present miserable condition. (Hear, hear.) Sir, I have said more than once in public that if the British even now made up their mind to treat the people of India, of whom they are the trustees and guardians, in the same way as they treat their own people in England, if they saw that their lives were much happier and better than they are in fact, if they raised the standard of living in the country from its present low level to something decent, not to their own standard but to something decent, if they gave them education, if they looked after their health, if they initiated adequate economic measures, then, in that case, the demand for political power would not be so insistent as it is now. Sir, it is because in these essential respects, the Government here have not functioned as efficiently and as usefully as was expected, and ought to the expected in the twentieth century, it is because of this that the demand for political power and for political advance is so great in the land. Anyhow, Sir, whatever may be the future constitution that we are going to have, let me make an earnest appeal to the Honourable the Home Member and his colleagues on the Treasury Benches that this is not the sort of law which will be accepted by the country and it is not fair on their part to thrust this law on the country. The argument about the transition stage does not appeal to us. You are saying with one breath that the Congress is the enemy of constitutional Government and yet you are placing on the

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Statute-book a measure which, if the Congress came into power, will utilise it to their own advantage and to your disadvantage. Sir, does it require very much foresight to see this? Is there not inconsistency throughout this Bill? (Hear, hear.) I do ask the Honourable the Home Member, who has shown that he can keep an open mind when questions of serious import are under consideration, to consider very carefully whether they should proceed with this Bill at all. It is inadvisable from every point of view. If you look at it from an ordinary citizen's point of view, it is vicious and indefensible, if you look at it from the political point of view, it will serve no advantage and, as a matter of fact, it will react upon the Government in a way which is not good for them. (Applause.)

Sardar Sant Singh (West Punjab : Sikh) : Sir, I listened with very great interest to the course of the debate on this important measure which has to form a prominent part of the criminal law of this country. The advocates of the measure, the Honourable Members on the Treasury Benches, have emphasized this aspect of the case, that there is civil disobedience movement in the country and that the movement is subversive

[Sardar Sant Singh.]

of all Governments and, as such, requires to be checked. They have utilised the argument which was advanced from the Opposition about the existence of civil disobedience movement in the country, but the remedies, that are being proposed by those who are sponsoring the Bill, are not remedies which go to meet that movement. We find in the course of the debate that both the parties, the Oppositionists as well as the advocates of the measure, try to hunt for arguments to support their own case, but, in their zeal for the cause which they have to advocate, they forget, Sir, that ultimately the fate of the measure does not lie in its being passed or rejected, but, as a matter of fact the fate lies in the effect that the measure has on the masses if it is passed or rejected by the House. The submission which I want to make to Honourable Members is this : admitting the fact that civil disobedience movement is in the country, may I respectfully and, in all humility, ask my Honourable friends sitting opposite whether the legal jurisprudence, I mean the British jurisprudence of criminal law, admits or does not admit the right of the people to rebel against the particular Government to resist laws which they enact ? My position is very simple. This thing has yet to be decided whether the established Government is a Government for all times, for all people and for all climes or whether the people, who are under the particular Government, have a right to show resistance to the measures or to the methods of Government that are being carried on. After giving our cool consideration to the fact that occasions do arise when the people are called upon to resist particular measures of a particular Government, may I ask, whether the softest measure that can be adopted for that resistance is not civil disobedience movement. It would be a vain attempt on my part to advance an argument of my own in impressing upon the Honourable Members of this House that when that occasion arises the people have the right to resist measures of Government. For my purpose I will quote from the well-known author Austin's book on Jurisprudence. He says :

“ If we take the principle of utility as our index to the Divine Commands, we must infer that obedience to established Government is enjoined generally by the Deity. For, without obedience to ‘ the powers which be ’, there were little security and little enjoyment. The ground, however, of the inference, is the utility of Government : And if the protection which it yields be too costly, or if it vex us with needless restraints and load us with needless exactions, the principle which points at submission as our general duty may counsel and justify resistance. Disobedience to an established government, let it be never so bad, is an evil : For the mischiefs inflicted by a bad government are less than the mischiefs of anarchy. So momentous, however, is the difference between a bad and a good government, that, if it would lead to a good one, resistance to a bad one would be useful. The anarchy attending the transition were an extensive, but a passing evil : The good which would follow the transition were extensive and lasting. The peculiar good would outweigh the generic evil : The good which would crown the change in the insulated and eccentric case, would more than compensate the evil which is inseparable from rebellion.”

This is a quotation from a very respected jurist of England who has occupied a very high place in English law. Even Austin allows that there are occasions when resistance to Government, howsoever bad it may be, becomes the duty of the subject. Then we have to ask, whether or not there is any justification for the existence of the civil disobedience movement. It has been proclaimed many times by Mahatma Gandhi himself and by the Congress too that the present Government are too costly, it is busy in exploiting the subjects and exploiting the country and he has said that anarchy would be far better than the law and order that we are

having in these days. This has not been a saying of yesterday or day before yesterday. This has been the position taken up by the Congress for the last ten years since the non-co-operation movement came into existence. May I ask, what Government have done to take away those conditions which justify resistance, to remove those evils which would take the wind out of the sails of the Congress movement? So far we have been given hopes that the new constitution by which real power will be transferred from Whitehall to this House will come, but it has not come so far. Now, my submission is that if the authorities, the powers that be, who control the destinies of this country are so reluctant to part with that power, there is no wonder that the civil disobedience movement has come in the wake of the non-co-operation movement. After all, what is Government? Government are here to do acts, to regulate the acts of the persons composing the society and community, in a regular manner not detrimental to the interests of others, but which produces concord between the various communities and various classes of the subjects of that Government. The purpose or end of Government is the weal and welfare of the community. But we find, Sir, if we go through the literature that has been broadcast by the Government Benches, that they have laid very great stress on this point that the maintenance of law and order is the only function of Government. I will presently quote from Austin again to show that the maintenance of law and order is not the primary function of Government; it is a secondary function and it is a necessity which enables the Government to bring about the welfare of the community over which they have been placed by the deity. I cannot give long quotations as the time at my disposal is short, but this is what he says :

“ But, by most or many of the speculators on political government and society, one or a few of the instrumental ends through which a government must accomplish its proper absolute end, are mistaken for that paramount purpose.

For example : It is said by many of the speculators on political government and society, that ‘ the end of every government is to institute and protect property ’. And here I must remark, by the by, that the propounders of this absurdity give to the term ‘ property ’, an extremely large and not very definite signification.”

It is, therefore, clear that those who want to govern must govern, not for the end of maintaining law and order, but for the purpose of bringing about the welfare of the community of which they are in charge for the time being. My purpose in pointing out this is, that India has long outstanding grievances in this respect. India says that the British people or the British Government in India have not been governing India for the benefit of Indians, but they have been governing in the interests of the English people. That is to say, a definite charge has been laid for a very long time in the history of political institutions in India. The result is natural ; the logical sequence of that has been the civil disobedience movement. That is the terminating point. When that terminating point has been reached, Government want more powers not to advance the welfare of Indians, but to crush this movement. The result would be, as has been pointed out very ably by my Honourable friend, Sir Abdur Rahim, that to grant more power to Government for the purpose of crushing the civil disobedience movement would be to provide more feeders to the civil disobedience movement itself. The present Government seem to agree with the theory of Mr. Hobbes who believes that Government, howsoever bad it may be, should always be obeyed. There should be no disobedience offered

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to the laws of the country and, the reason given by Mr. Hobbes is that because of the obedience to laws the welfare of society is safeguarded. That theory he tears to pieces in his book and says that Hobbes is an advocate of tyranny and not an advocate of advancement and progress. I am quoting these well-known authors not for a useless purpose, but for bringing home to the Honourable Members on that side that even if we concede, for the sake of argument, that an emergency exists and that the civil disobedience movement must be put a stop to in order to give way to progressive constitution that is forthcoming, even then it is not the business of the Honourable Members on the Treasury Benches to ask for a permanent change in the criminal law of the country. Permanent change implies that they are not willing to part with their power, and the constitution, hope of which is offered to us, is only a dream and not a reality. If they believe that Indian constitution requires a change and the people are impatient to get power in their own hands, in that case the only course open to them is to hurry forward with the constitutional advance and part with the real power from themselves to the people of this country ; and, as soon as this is done, the need for any such legislation as this will soon disappear. The emergency has been in existence practically for the last three years. We have been governed by such legislation which has been termed in certain quarters to be nothing short of martial law in disguise for three years : the country's patience has been tried and tried very sorely ; but yet there are no signs of that description where disorder should be the rule and order the exception. Still there is order in the country ; disorder has not come. If three years have not been sufficient to make up their minds as to what power to give and what power to withhold, or if they have not yet decided upon the number of safeguards, as, from the reading of the proceedings of the Round Table Conference, we find that there may be more safeguards in the constitution than the ordinary rules—it seems difficult how they will be able to make up their minds during the next two or three years ; and if they mean to govern with the help of such extraordinary legislation, the result would be that they will goad the people to desperation, I hope their object and our object is that it should not happen in the country. The provisions of the Bill have been subjected to a good deal of comment and it has been shown that the ordinary law of the land is quite sufficient to meet the requirements of the situation. Reference to the Select Committee may help in removing some of the more hateful provisions of the clauses, but it cannot remove the primary objection to the principles on which the Bill is based. Therefore, I support the motion for circulation.

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official) : Sir, I do not only congratulate the Honourable the Home Member but thank him very warmly for this very useful and much needed Bill. He has done a great service to the peaceful and peace-loving Indians by bringing such a good and effective measure, which, when passed, will kill the germs of civil disobedience, lawlessness and anarchy in India, the country we love so much and which is the brightest jewel in the British Crown. This Bill is intended to remove all illegal and improper pressure by mischief-makers over the peaceful public. It is an open secret that there are in and out of this House two kinds of Indian mentalities. The one wishes to see the British in India and the other wishes to see them out of India, the one

opposes the civil disobedience and the other supports it secretly or openly. Therefore, it will be no surprise if some Honourable Members following one mentality will support the Bill and some Honourable Members following the other one will adduce as many arguments against the Bill as their best brains can help them.

Weakness in any form is not liked, while strength is always worshipped. No man likes to have weak legs, weak health, weak children, weak finance, weak laws, weak police, weak army, and weak Courts of law. Therefore, to cope with the civil disobedience and many other harmful movements and activities, we the peace loving and peaceful Indians, do like firm laws and strong measures to root out all evils from our country which so often disturb us and ruin our further progress, prosperity and unity. No weak Government on earth command respect and no Government with weak laws can govern and administer the country successfully or cope with the hostile activities. No nation in any country can flourish without peace, and peace cannot be maintained without rooting out all kinds of anti-peace movements and activities. This Bill is simply and only intended to root out all anti-peace movements. If the Honourable Members agree with the principle and aim of the Bill, the wordings in the several sections can be changed to their reasonable satisfaction by the Select Committee, but if the Honourable Members disagree with the principle and aim of the Bill, then they must say goodbye to the peace and prosperity of India. Perhaps the Honourable Members, who have opposed or will oppose the Bill, have not seen the riots and disturbances on a big scale and, therefore, do not value public peace so much as those who have been in the riots and have passed days of dangers and nights of waking and they know well how great were the dangers to their lives, wealth, families and properties. We must, as good sons of India, love and welcome such laws and measures which give us peace, security and safety, and it will surely be a diabolical act to oppose them. We must use our brains, energy and power for the good and not otherwise. We should honestly try to improve and modify the Bill in the Select Committee by constructive proposals and wordings, and must not try to oppose the Bill by legal quibbles and destructive criticism. I know a number of persons, who wish the British to leave India, but they must understand well that without the British, India will be in hell again, and there shall be no peace, prosperity, liberty and all what we are enjoying now. I must also tell them frankly, that the British cannot leave India and I assure England that so long as the British are just and impartial in India among the different communities, interests and religions, her rule shall always be liked and welcomed in spite of any and every hostile activities and movements by the mischief makers. It is evident that the destinies and vital interests of England and India are so much mixed and interwoven together that one country cannot live without the other. We and the British in India and in England have to live and die together for centuries to come.

Sir, a little firmness with justice and impartiality by the Prime Minister has brought the high caste Hindus, Mahatma Gandhi and the depressed classes to a mutual settlement, while the long efforts of the Hindu reformers, the European missionaries and the delegates to the Round Table Conference could not succeed. Thus when so many troubles have been averted by over co-operation with the Government, why not now we wholeheartedly co-operate with the Government to eradicate the germs of the civil disobedience by this very useful Bill ? I am sure, we shall

[Major Nawab Ahmad Nawaz Khan.]

have thus a very bright and most hopeful future for India. Sir, it is our foremost and imperative duty in this House to help and support the Government in administering the country firmly, justly and fairly, always aiming at the maintenance of peace, law and order as well as to root out all sorts of harmful and hostile movements and activities against the Government and the public.

If we place ourselves in the position of those who have to govern the vast Indian Empire which has so many religions, communities, interests and cultures, we will then at once see and realise the necessity and usefulness of such a measure as is brought by this Bill for each province in India. So long as the emergency was for a short period, the Ordinances were brought into play, but when experience has proved that the necessity to cope with all undesirable movements is for an unknown and long future, then the expediency and administrative faculty have compelled the Government to bring such a measure in a comparatively permanent form, as this Bill is, to be used when required in each province of India.

The issue before the House is a very simple and clear one, that if Honourable Members dislike anarchy, disturbance, riots and civil disobedience, they should wholeheartedly support the Bill and, if they like some change in some words as some lawyers have discussed these points at length, they can do it in the Select Committee, or, if the Opposition likes, they can include one or two more capable men of their party in the Select Committee for this purpose.

Sir, I have been for a long time in England and have toured in France, Germany, Austria, Turkey and Persia, and I assure the House that out of all the foreigners, the British are the best to rule India. (Applause from the Nationalist Benches.)

Mr. Gaya Prasad Singh : Very good certificate from a nominated Member !!

Major Nawab Ahmad Nawaz Khan : It is also a foregone conclusion, as all of us know well, that neither the Hindus alone nor the Muslims of India can now rule and govern India. The only possible form for us to participate in the Government of India is to remain under the British, maintaining peace and harmony in each province and removing all possibilities of disturbance, riots and civil disobedience, etc. (*Mr. B. Das :* "That applies to the Frontier."), therein, which is the whole aim and object of the Bill now before the House and which must, therefore, be passed.

Lastly, I appeal to the Honourable the Home Member and the Law Member that though I hope this House will pass this Bill, but, if, unfortunately, it is rejected, even then the Government must have it passed to save India from greater destruction and vast ruin. (Laughter from the Nationalist Benches.)

Sir, I support the Bill and oppose all motions for circulation which will only cause delay and will not serve any useful purpose at all. This Bill should now be referred to a Select Committee.

Mr. Jehangir K. Munshi (Burma : Non-European) : Mr. President, I would like to congratulate the Honourable the Home Member on his very able speech, a speech remarkable in more sense than one, but all the same

wholly unconvincing. (Laughter from the Opposition Benches.) It is necessary, at the very outset, to find out what the principle of the Bill is, because the Honourable the Law Member made light of this very important question in answer to a pertinent inquiry from Sir Abdur Rahim. The principle of this Bill is a negation of all liberty, suppression of all freedom, a savage and murderous attack against the most elementary rights which every Indian subject of His Majesty is entitled to enjoy in India and every other part of the British Empire. This, Sir, is the principle to which the Honourable the Home Member has solemnly asked us to lend our support. In asking us to lend our support to this principle of the Bill, the Honourable the Home Member has presumed that the Opposition consists of a pack of congenital idiots or a group of contemptible traitors. (Laughter and Cheers from the Opposition Benches.) I am not certain which particular presumption has gained the upper hand in the Honourable the Home Member's mind ; but he will probably tell us when it is his turn to reply.

It has been claimed by Sir Samuel Hoare and by his henchmen—it has been repeated everywhere,—that his policy of governing India by drastic Ordinances and his orders, loyally carried out by the Government of India, have crushed the Congress movement, that the Congress movement as such is non-existent in the country. These statements could not have been unknown to the Government of India. Either these statements are well founded or they are untrue. If these statements are well founded, it is the duty of the Government of India to inform Sir Samuel Hoare, the British Government and the British public that the Congress has been crushed. If the Congress movement has been crushed, if the Congress is no longer a living force, then, Sir, there is not the slightest excuse even from the Home Member's point of view for introducing any Bill whatever, much less a Bill of this character. If the Congress is still a living force, why continue this misrepresentation to the British public ? Why not admit that although Mahatma Gandhi is in prison, although all the Congress leaders are in prison and have been in prison for eight months, although thousands of Congressmen have been in prison and are still prepared to go to prison, the Congress movement is a living force in the country, and Congress influence to-day is at its zenith. Now, Sir, if, by the rule of drastic Ordinances extending over a period of eight months, the Government of India have not been able to crush the Congress movement, the Congress spirit and the Congress mentality, how do they propose to achieve their object by putting permanently on the Statute-book a legislation of this type ? (Hear, hear.)

Mr. President, the provisions of this Bill are not aimed against the Congress or against the Congress movement. The provisions of this Bill are aimed against the whole Indian population, the vast majority of whom are every day acquiring, in an increasing measure, what I describe as the Congress mentality. I, Sir, do not belong to the Congress. I have never belonged to the Congress. I have no anti-British feelings. I stand before this House garbed with everything that is of British manufacture. I take no pride in making that statement. I only point to that fact to illustrate that although I am not a Congress follower, I still have got the Congress mentality. And this Congress mentality was not there three years ago, and, for this daily increasing Congress mentality in me, I have to thank the Government of India.

An Honourable Member : And the Ordinances.

Mr. Jehangir K. Munshi : I am now placing before this House this typical illustration. There are millions of Indians like myself to whom, three years ago, the Congress did not mean very much, but to whom to-day the Congress is the only living force, providing the only method by which India can achieve her political aspirations. I, therefore, contend that the provisions of this Bill are aimed against the whole of this vast Indian population who have got the Congress mentality and who, every day, in an increasing measure, are lending their support to the Congress movement. (Applause.)

Mr. President, there are three methods open to India to achieve her freedom. The first method, which has been referred to so often, is the so-called constitutional method. That constitutional method the Indian National Congress has pursued for more than 40 years. The Indian National Congress has abandoned that so-called constitutional method after giving it a trial for more than 40 years. And, I am sure, the Honourable the Home Member will agree with me that a trial for a period of 40 years even in the lifetime of a race or a nation is a sufficiently long trial.

Mr. F. E. James : No.

Mr. Jehangir K. Munshi : May I enquire from my Honourable friend, Mr. James, what he would call a sufficiently long period ?

Mr. F. E. James : It took us 400 to 500 years to achieve the liberties that we are at present enjoying.

Mr. Jehangir K. Munshi : Liberties wrested from a foreign race ?

Mr. F. E. James : Yes.

Mr. Jehangir K. Munshi : Mr. President, my reading of English history is slightly different from Mr. James' reading of his own history. (Laughter.)

Then, Sir, coming to this very House itself, what are we all pursuing in this House ? Are we not pursuing constitutional methods ? Is the Honourable the Home Member prepared to give in to constitutional methods ? Is the Honourable the Home Member prepared to say that the official followers, sitting behind him, will not vote on this motion ? Is he prepared to take the vote of the elected representatives of the people in this House who have come here to formulate their complaints and demands in a constitutional manner ? He is not prepared to do that.

The Honourable Mr. H. G. Haig : Because it is not the constitution, Sir. (Laughter.)

Mr. Jehangir K. Munshi : I am greatly obliged to the Honourable the Home Member for making the position clear. According to the Honourable the Home Member, the only constitutional method by which Indians can achieve their freedom is by obtaining the votes of the official elements in the Indian Legislatures. (Cheers from the Opposition Benches.) It is quite clear, Sir, that this so-called constitutional method is entirely useless in the hands of the Indian people. It is for this reason that Mahatma Gandhi had to turn to some other method of a non-violent nature. And

this civil disobedience movement is the result of Mahatma Gandhi's conclusion that, constitutional methods having failed for a period of 40 years, the only other method of a non-violent nature was civil disobedience. Now, Sir, my point is this. I do not wish to go into the controversy, in the comparatively short speech which I propose to deliver, whether the civil disobedience movement is harmful or harmless. But I do wish to put this point to the Treasury Benches. If the vast majority of the population of India favour and support the civil disobedience movement, then it is not for the Honourable the Home Member to tell the people of India what is or what is not good for the administration of this country. The whole strength of the Congress movement, the whole strength of the civil disobedience movement lies in the fact that the Congress carries with it and behind it an ever growing public opinion, and, for that ever-growing public opinion, the Government of India are mainly responsible. (Hear, hear.)

Now, Sir, if this Congress method is not open to Indians to achieve their freedom, the only other method is the method pursued by other races and other nations, and, that is, a revolution, a physical revolution. That, Sir, is unthinkable from any point of view in the present state of India, and, I am sure, the Honourable the Home Member would be the last to advocate any activities in that direction. So, it again brings us back to the question, how, and, by what means, is India going to gain her freedom ?

We have recently had evidence of increasing terrorist activities. These terrorist activities I condemn and all other Members in this House condemn. (Hear, hear.) We all wish that these terrorist activities would cease. But I do ask the Treasury Benches, can they entirely disclaim all responsibility for these terrorist activities ? When young men and women are prepared to lay down their lives, whether from a right motive or from a mistaken motive, because they feel that there is no other method open to them, can the Government of India say that they have got no responsibility at all in the matter ? (Hear, hear.) And there is one important factor which I earnestly ask the Government of India to consider. I think His Excellency the Viceroy had made reference to it in his speech. What is the position of public opinion with regard to these terrorist activities ? Terrorist activities will come to an end to-morrow if public opinion is definitely against it. There is no question of it. No terrorist movement can prosper in any country, if public opinion is definitely against it, because, then the spirit of patriotism, the spirit of martyrdom would not be there. If any particular act is condemned by one's own countrymen, then it is robbed of all patriotism and martyrdom. I am asking—I am making no assertion,—but I am asking the Government of India to consider very carefully whether public opinion daily is hastening against or sympathising with terrorist activities ; and if public opinion is not saying itself against terrorist activities, it is for the Government of India to solve the problem, because no Government and no armaments can possibly control or suppress sporadic acts of violence. Large bodyguards, armed to the teeth, have not been able to save kings' lives ; and how is it possible for any Government, for any administration, for any armaments to guard the lives of any particular set of people in a vast country like India ? The only insurance which Government officials, whether they are British or Indian, can have, is public opinion. But their greatest insurance agent, their greatest policeman is, by Government's own act, kept in jail. It is,

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by Mahatma Gandhi being kept in jail, that the most wholesome influence in the public life of this country is not allowed to have its sway in the country. (Hear, hear.) If Mahatma Gandhi were free, if he were allowed to assert his influence, these terrorist activities would very soon come to an end. But the Government of India have chosen to keep their best friend and ally in jail,.....

Mr. F. E. James : But there were terrorist outrages even when Mr. Gandhi was free.

Mr. Jehangir K. Munshi : If Mr. James were to follow the history of the terrorist movement, he would find that the terrorists gave the Mahatma ample scope to follow his own non-violent methods, to achieve success or admit failure. From the terrorists' standpoint, Mahatma Gandhi's non-violent methods have ended in failure, and his imprisonment is the admission of failure that the terrorists wanted.

Mr. President, if we turn to clause 2 of the Bill, it contains an amazing admission. I do not propose to go into the details of the Bill. I am referring to this clause to make a general point. Clause 2 of the Bill, which will be section 140-A of the new *Haig* Penal Code (Laughter and Cheers from the Opposition Benches) reads as follows :

“Whoever *dissuades* or attempts to *dissuade* the public or any person from entering the Military, Naval or Air Service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.”

Mark the words, Sir, “*dissuades* or attempts to *dissuade*.” There is no element in this section of intimidation or coercion. What is the Government's admission underlying this section ? We have in the country vast unemployment and acute economic distress. Millions of people are starving ; and what does my Honourable friend, Mr. Haig, tell this House and the country ? He tells us that Congress influence is so great, that public opinion and public sympathy are so strong with the Congress, that although millions are starving, still the Congress can, by methods of *persuasion*, prevent a few thousand men from joining the military, naval and air services of His Majesty. That, Sir, is the Government's admission underlying this section, because, what is made penal here is the act of “*persuasion*” ; and the admission here is that so great is the Congress influence that the Government of India themselves recognise that the Congress can, by mere acts of “*persuasion*”, prevent thousands of starving men from obtaining pay, food, clothing, quarters, pensions, and maintenance for their families. The same argument applies to clause 13 of the Bill which relates to the police. These two clauses, as they are worded, reveal an entirely different tale from the official boasts which we have heard and read about from time to time that the Ordinances have succeeded in securing the object of the Government of India. (Hear, hear.)

Then, Sir, there is one omission in the Bill from the Government standpoint, and I would like to point that out to the Honourable the Home Member. This Bill takes away from a man his liberty, his money, his lands, his houses, his property, his stocks and shares, his securities ; but there are thousands of cases in which a man holds his country more precious than all his possessions. So even these drastic provisions will not touch that particular class of men. But those men, who value their country more

than all their possessions, may still value their wives more. There are thousands of men who value their wives more than their country, and, in this Bill, there is no provision for taking away a man's wife ; and I suggest to the Home Member that when this Bill goes to the Select Committee a provision should be added whereby, the Government of India, and, of course, the Local Governments, should have the power to authorise the police to take away men's wives also. (Laughter.) If this provision is added to this Bill, the Home Member's fear, that the police service may prove unattractive, will disappear, because the police would be empowered to take away the wives of thousands of men. (Laughter and Cheers from the Opposition Benches.)

Mr. President, the Indian Penal Code has been in operation for more than 70 years. It is a great Penal Code in spite of about half a dozen unfortunate sections subsequently added. It is a monument of English jurisprudence, a monument to British justice. (Hear, hear.) What the Home Member is trying to do is to disfigure this great monument of English jurisprudence and British justice : and what is his reason for attempting to commit this sacrilege ? His reason is that he is not doing so for the benefit of the present Government, but for the benefit of the future Indian Government that might come into power two years hence. May I inquire of the Home Member, if such a desire on the part of any section of the Indian public has ever been expressed ? We are not aware that any such desire has ever been expressed that there should be a law of this kind when the new Indian Government comes into power. This kind of argument cannot convince the House and does not carry conviction even to the Home Member himself. (Hear, hear.)

Mr. President, this Bill will make it impossible for any man to live in this country except at the mercy of petty police officials. No man can be free and feel safe from imprisonment or deprivation of property if, at any time, a petty police official takes it into his head to proceed against him under the provisions of this Bill, if it becomes law. How can this House possibly lend its support to such a Bill ? (Hear, hear.)

Now, Sir, I would like to answer a few points made by my Honourable friend, Mr. James, and, in doing so, I would like to congratulate the European Benches on the acquisition of a distinguished Member. Mr. James took very great pride in saying that although the Consolidated Ordinance consisted of 80 sections, 60 of the most objectionable sections have been dropped, and only 20 of the more harmless sections have been embodied in this Bill and placed before us ; and Mr. James says : " Why do you make so much fuss about putting on the Statute-book these remaining 20 ' *harmless* ' sections ? " (Laughter.) Mr. James proceeded to say that the belief of the European Group is that the drastic provisions for the control of the press have had the desired effect. I asked Mr. James what the reasons for the belief of the European Group were. Mr. James gave no answer.

Mr. James made a very great point of Mahatma Gandhi's statement that one man has no right to control or dictate the destiny of millions of people. Mr. James tried to use this very statement against Mahatma Gandhi himself and he advanced the argument that one man, namely, Mahatma Gandhi, had no right to dictate to the Government of India. But the one fundamental difference Mr. James lost sight of is this, that whereas Sir Samuel Hoare's dictation carries no public opinion either

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with or behind it, Mahatma Gandhi's so-called dictation carries with it the vast majority of the people of this country. (Applause.)

Sir, Mr. James waxed eloquent and said that the civil disobedience movement has brought ruin and distress to the poorer people of Indian society. May I inquire of Mr. James as to what the European community in India has done for the past 75 years to alleviate the distress of the poorer sections of the Indian population ?

An Honourable Member from the European Group : We have given them employment.

Mr. Jehangir K. Munshi : Mr. James also used this argument—I am using his own words :

“ That the weapon of direct action is likely to be used not only by the Congress, but also by other parties and organizations.”

But this statement again is based on the same initial fallacy, because no movement can possibly take root or flourish in any country unless and until it carries public opinion and sympathy with it. (Hear, hear.) Then there was an amazing part in Mr. James's speech—the bargaining offer to the Nationalist and Independent Benches—that, if the Opposition Benches would be prepared to vote for the motion for reference to a Select Committee, the European Group would be prepared to promise, on their part, to try and agitate for reduction of the period of duration of this legislation. The question was put to him as to what period would he agree to on behalf of the European Group ? At this stage Mr. James became very guarded and said : “ as the exigencies of the situation would require.” (Laughter.) Now, mark you, Sir, this would happen *after* the Opposition had voted in support of the motion ! (Laughter.)

That reminds me of the Honourable the Law Member's invitation to the Opposition to walk into his parlour. The Law Member, in a very able and good-humoured speech, kept on saying that he is open to conviction, that he is open to reason. By that time—when he made that statement—these provisions had been in operation by way of Ordinances for eight months. The Honourable the Law Member knows how the Ordinances have been administered. The debate in this House had continued for three days including Mr. Puri's very exhaustive speech, but till that point the Honourable the Law Member was not convinced, and he did not inform the House at what stage and, by what process, he would be convinced that this Bill is not acceptable. (Laughter.) I gathered from the Law Member's remarks that the Opposition should first vote for reference to the Select Committee and then take their chance of succeeding or failing to convince the Honourable the Law Member in the Select Committee. (Laughter.) My Honourable friend, Mr. James, referred to and sought to make a point of the powers used by His Majesty's Government during the general strike in England, but, unfortunately for Mr. James, he added on to that very sentence—to emphasize his point I think—the words, “ with the sanction of the vast majority of the people of Great Britain.” (Laughter and Hear, hear.) Sir, that is the whole point. The Government of India, in enacting this Law, are seeking to do so *without* the sanction of the vast majority of the people of this country, otherwise there would be no opposition in this House, and

there would not be a five days' debate. On the contrary, the Government of India are trying to enact this law in the teeth of fierce and consistent opposition from every section of the Indian population and from every part of this country. (Applause.)

(It being Four of the Clock.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Order, order. Mr. Morgan.

MOTION FOR ADJOURNMENT.

TERRORIST ATTACK ON SIR ALFRED WATSON IN CALCUTTA.

Mr. G. Morgan (Bengal : European) : Mr. President, I rise to move my motion :

“ That this House do now adjourn.”

Sir, I little thought when I was speaking last Monday that I should have to bring a motion of this description before this Honourable House. I then said that it was very difficult to speak without a certain amount of heat,—and I hope I shall be able to keep comparatively calm while I am putting this motion before the House. This is not a censure on the Bengal Government. It is to bring before the House the fact that it is evident from what has happened since last Saturday that the powers which the Bengal Government have are not sufficient, or appropriate, to check revolutionary and terrorist movements and crimes of this description. The attack, as this Honourable House knows, was made upon a certain gentleman, Sir Alfred Watson, who is the Editor of the *Statesman*, when he went out for a drive last evening, and the method of the attack was that of what we understand as the “ gangster ”. It is rather a new method of murderous attack ; I do not think, so far as I can remember, that in all my experience of Bengal, an attack of this description has been made before ! One would never have thought, when going out for an evening drive, that one was going to be shot at by a number of people who came alongside and fired revolver shots. Fortunately, as far as we can gather, there has been no death so far. But I want to make it clear that the Bengal Government, at the present moment, *will have to* set aside most of their other activities and concentrate on the suppression of terrorist crimes. I cannot see how any other part of the administration is going to function successfully *as long as* this species of crime prevails in the province. Sir, it is an attack on the public. It may be said, some people will say, and they may concentrate on that point, that it is an attack against Europeans. That may be so at the present moment. Even granted that it is primarily, *at the present moment*, an attack on Europeans, I hope my Honourable friends in this House will realise that, once a revolutionary movement of this description gains strength, there is nothing to stop it being used against every single person in this country who does not agree with this particular revolutionary programme. (Hear, hear.)

Now the question comes in, so far as Bengal is concerned,—is the administration of education in Bengal satisfactory ? I have had a good

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deal to do with educational matters in Bengal and I have seen the administration and the discipline of education in Bengal growing steadily worse and, I am sorry to say, that I have no admiration for the administration and discipline of education in Bengal at the present moment. I understand that the position of the Government is stronger in other provinces and I think the point ought to be investigated as to whether the Bengal Government should not have more power over the schools and colleges in Bengal with regard to discipline and administration. This Honourable House will no doubt have followed the correspondence between the Bengal Government and the Corporation of Calcutta. I need not go into details, but I would ask the Honourable Members to read that correspondence and judge for themselves. Sir, it has been alleged that in the Bengal Provincial Congress Committee there have been persons connected with the terrorist movement and persons who have been convicted of terrorist crime. I understand that facts are obtainable on that point and, if the Government can definitely say, that they have these facts in their possession, I would urge them to lay those facts before this House. Mr. President, we have heard a great deal about the freedom of the press. Sir Alfred Watson is the Editor of a paper well-known to all of us. Is this freedom of the press, that an editor who merely gives voice to his opinions in the press which are not palatable to some section of the people is to be shot at and, if possible, murdered? Is that the freedom of the press? Is it not worse than this Bill which is before the House? Now, Sir, I would quote a few words of Mr. Gandhi which he said in connection with outrages. Mr. Gandhi said :

“ So long as outrages were tolerated and public did not condemn them in action rather than in speech and assist Government in bringing the offenders to book, these outrages would continue even with self-government or with complete independence.”

Those words are not mine ; they are Mr. Gandhi's. I may refer to a remark just made by my Honourable friend, Mr. Munshi, that brings in this point. He said that public opinion and public action in this country are the methods by which terrorist crime will be suppressed. Unless the public are definitely going to come forward and insist that this terrorist crime shall cease and help the Government and its officers in every way to detect and convict the persons connected with this crime, it is going to be a very difficult matter to suppress it except by absolute force of a military character. Sir, I may mention in this connection that this is one more crime added to a long list, and in that list 18 Government servants and Government officials have been shot at when they were more or less in execution of their duty. This is a black record and I hope that public opinion in this country will be so roused that it will not only take the form of passing Resolutions in the Legislatures or in the municipal corporations of the country, but take the form of actively assisting Government in rooting out this terrorist and revolutionary movement. One point comes forward to my mind in connection with this movement in Bengal. It is most unfortunate that this outrage should have been perpetrated at this particular moment and it is a question as to whether, so far as Bengal is concerned, the grant of any constitutional reform should not be postponed until this terrorist movement is definitely got rid of. It is a hard thing to say

when we are all doing our best to get constitutional reform brought on as quickly as possible. I would ask this Honourable House what they think the position in Bengal would be if provincial autonomy were started to-morrow in the midst of terrorist crime. The position, as I know it in Bengal after nearly a whole life time spent there, would be extremely difficult for any Government.

Sir, I move.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Motion moved :

“ That the House do now adjourn.”

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadian Rural) : Sir, I can quite appreciate the anxiety and the difficulty of the community which my Honourable friend, the Leader of the European Group, represents in this House. (*Honourable Members* : “ Louder please ; cannot hear.”) In those days when terrorism was let loose in the Punjab, during the dark days of the martial law, we also felt deeply, and denounced such actions up and down the country, with the result that such an eminent authority, as Lord Curzon, rose and denounced it in the House of Lords describing Amritsar as “ reeking shambles ”. Sir, that “ official terrorism ”, as my Swarajist friends used to say, in the Punjab had to be repudiated by a statement of the Secretary of State in Parliament in deference to the public indignation which expressed itself in this country. Therefore, I can quite understand the European Members on those non-official Benches getting excited though my Honourable friend, Mr. Morgan, talked very calmly and got angry and, righteously so, at the abominable outrages as are being perpetrated in Bengal.

Sir, the Editor of the *Statesman*, Calcutta, has been known to be a great friend of the Indian cause. It is true that he is the opponent of our policy, the nationalist policy, but a mild opponent, a sympathetic opponent. He is an advocate of reforms and of progressive reforms. That an anarchist of this country should aim at the life of such good people, is an indication of the fact that several youths of this country are leaving the pleasant and sheltered paths of constitutionalism, getting cold about the creation of a reforms constitution. Sir, they want no reforms. The terrorists in the country want revolution. They say that the constitutionalists, and the reformers stand between revolution and the present Government. They want to wipe us out as Redmond and his party were wiped out in Ireland until Sin Fein came to power and, at the point of the pistol, dictated to Great Britain : “ You must endorse these terms ”. Sir, extremes meet. My Honourable friend, Mr. Morgan, and his European extremist friends to-day naturally feel something more than a righteous indignation. If I were in Mr. Morgan’s position, I might have talked like him, because I too might have shared the same despair. Sir, when these mad revolutionaries make it impossible for Englishmen to live in Calcutta, I can understand Englishmen becoming desperate, but despair, as the history of Great Britain and of the British Empire shows, is no remedy for terrific situations of this kind. Had Great Britain listened to Redmond, Redmond would have delivered the goods, but Great Britain chose to listen to the die-hards in England, to men who said, do not proceed with the reforms in

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Ireland, do not conciliate the Redmonites, the nationalists and the constitutionalists in Ireland. My Honourable friend over there stands up and says, do not go forward with the reforms. It is like saying, walk into the jaws of the revolutionary terrorists, let constitutionalism disappear, let Bengal become another Ireland. I know that the Governor of Bengal is a great administrator with Irish experience, but I doubt whether he would endorse a statement of that kind, saying that we should not go forward with the reforms, that education must be turned upside down. The late Sir Surendra Nath Banerjee used to say that anarchism in Bengal was a noxious growth of the West transplanted to the East with western education. Sir Surendra Nath Banerjee was right. My Honourable friend, the European leader, does not want you to pour western wine into eastern bottles, but having poured it so long he cannot grumble and complain that you should not march forward with the reforms. Block everything, block progress, let there be no reforms, let there be revolution or repression. This was what he suggested. The Honourable Member was talking of absolute military force. As a constitutionalist, I take strong exception to his thinking that the present terrorism in Bengal should take the form of militarist repression of the whole people of Bengal. Terrorism can be attacked only in one way, and that is by rousing public opinion against the terrorists. We all share the feelings of my Honourable friends of the European Group so far as the putting down of terrorism is concerned. Terrorism must be wiped out, and I endorse every word of Mr. Morgan that public opinion should rise as one man to put down terrorism. Government and public opinion must work together in putting down terrorism, because the terrorist stands in the way of constitutional progress. But unless you go forward with constitutional reforms, you will be only helping the terrorist, you will be only playing into the hands of the terrorist and helping forward the policy of terrorism.

Sir, my Honourable friend said that provincial autonomy should not be introduced in Bengal. Let us assume, for instance, that Bengal is to-day, though I deny that fact, as Ireland was before the settlement, when De Valera was its leader. Bengal has not yet reached that crisis, but if the sad mistaken policy of blocking the reforms and blocking provincial autonomy is pursued, the result will be that Bengal will become ten times worse than Ireland. (Cheers from the Nationalist and Independent Benches.) I do not want Bengal to become worse than Ireland. I want terrorism to disappear and, if there be De Valeras in Bengal, I want them to come and take office, because the bite will not be so bad as bark. The bite from office will not be so bad as their barking from the platform. But surely the terrorists—if their terrorist movement is meant for the liberty of the country which I deny—surely the terrorists, are only helping forward the development of a reactionary policy. But when reforms are introduced, when provincial autonomy is introduced in Bengal, the extremists of to-day will become the moderates of to-morrow. Who was Mr. Consgrave in Ireland, who was Michael Collins, who was Arthur Griffith? Michael Collins was the Captain General of the anarchist party in Ireland. He was shot by the Irishmen themselves when he signed the Anglo-Irish

Pact. Even so, if you go forward with provincial autonomy, the result will be there will be such a comradeship between the public and the European community and all, that terrorism will be put down and, instead of a European Home Member of Bengal putting it down to-morrow, it will be my Honourable friend, Sir Abdullah Suhrawardy, or Mr. S. C. Mitra who will be putting it down, just as Griffith put down terrorism in Ireland. As I was saying, I deeply sympathise with the feelings of my Honourable friends over there, if leading members of their community are being shot like this, they will grow desperate and it is time, Sir, that all repressive measures in the country are withdrawn. It is time that the Honourable the Home Member does not go forward with the measure to which the Leader of the European Group just referred which is before the House. Let there be no repression, let there be no repressive measures and let Mahatma Gandhi be released, because the Mahatma can be the greatest policeman of the British Empire. (Hear, hear.) I am glad my Honourable friend, Mr. Morgan, referred to the Mahatma. He also alluded to some of his previous teachings and I hope negotiations will immediately be set on foot and the services of the Mahatma sought to put down terrorism in Bengal. On a previous occasion, when terrorism was assuming large proportions in Bengal, a wise Viceroy and a wise Secretary of State released Mahatma Gandhi. Now that the situation is getting bad in Bengal and no one will accuse Mahatma Gandhi of being a terrorist or a sympathiser of terrorism, it is time that Mahatma Gandhi and all those of his way of thinking are released, so that this terrorist atmosphere might be wiped out, so that we may have an atmosphere of calm and peace and, so that we may proceed rapidly with the policy of reforms under which there can be no encouragement of any kind to terrorism. Sir, I deeply sympathise with my Honourable friend, Mr. Morgan, I deeply sympathise with all the Members of the European Group who sit on those Benches, I strongly condemn the anarchist outrage in Bengal and I hope public opinion will come forward and assert itself, for public opinion and the granting of progressive reforms are the only panacea for the terrorist despair. With these words, I take my seat.

Sir Muhammad Yakub : (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, the extent to which and the manner in which the terrorist movement is spreading in Bengal must be a source of great concern to all law-abiding citizens in India. The movement, Sir, is not confined to Bengal alone, but like a wild fire it has spread from one corner of the country to the other. This movement which has taken its birth in the land of my Honourable friend, Mr. Mitra, is so quickly spreading over the whole country.....

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : It is not a fact.

Several Honourable Members : No, no.

Sir Muhammad Yakub : It is spreading over the whole country.

Rao Bahadur B. L. Patil (Bombay Southern Division : Non-Muhammadan Rural) : No, no.

Sir Muhammad Yakub : In the Punjab, in the United Provinces, and in the North-West Frontier, murders were committed like

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that, although it is not on such a wide scale as it is in Bengal. At the same time, it is spreading throughout the whole country.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : Wish is father to the thought.

Sir Muhammad Yakub : At first the European officials only were the targets of this movement, but now we find that the life and limb of the non-officials are also insecure and unsafe. Within the last two months, two murderous attacks have been made on the life of Sir Alfred Watson, the Editor of the *Statesman* who, I understand, is the most popular non-official European among the Bengali community. It is unfortunate that all the officers murdered in Bengal were, I understand, persons who were very popular with the Indian community and sympathised with the aspirations of Indians in that province. This dastardly attack on the life of Sir Alfred Watson, soon after the diabolical and, I should say, savage-like invasion on the Railway Institute at Chittagong, has created a great sensation throughout the whole country. And the law-abiding citizen has started to think whether the British Government have ceased to function in India and whether the time has not come when we should take the law into our own hands and organise our own forces in order to meet the forces of terrorism in the country. It is really surprising that a great and powerful Government like the British Government, with their enormous forces, should be paralysed by a few Bengali young men and women. While the Indian tax-payer is paying 75 per cent. or more, of the total revenues for the maintenance of safety in this country, Government stand with folded hands and the blood of innocent men, women and children is being shed ruthlessly without any rhyme or reason. The other day, speaking on the Ordinance Bill, I quoted a few passages from the bulletins and leaflets which were issued in the country, in different provinces, and I tried to show that it was on account of the excitement and provocation which was caused by such leaflets that the raw youth were incited to commit acts of terrorism. Here, in my hand, I have got another red leaflet with pictures of two pistols at its head. It is in Bengali, but I have got an English translation also in my hand.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Better lay it on the table.

Sir Muhammad Yakub : You are not governing the order of the House ; it is the President who can direct me.

Mr. B. Das : It will form part of the proceedings.

Sir Muhammad Yakub : I am obliged to say that it is this half-hearted condemnation of terrorism which is increasing and inciting terrorism in this country. Sir, this pamphlet was issued in Chittagong only a few days before the diabolical invasion on the Railway Institute. I will not weary the House by reading a translation of the whole of this pamphlet, but, with your permission, Sir, I will only read two or three sentences. It says :

“ Who do speak ill of revolution ? It is they who deceive the masses by holding before them alluring hopes with a view to satisfy their individual or class interests. We never understand what is individual good. We never know of any special class.

We want to wet the earth with torrents of blood coming from the heart with a view to do good to oppressed mankind. We want to organise the deceived masses to end the persecution of ages. They are only engaged to do harm to us who have the chance of a ruin to their own interests when we go to carry out this great vow."

This long pamphlet ends with these words :

"Royalist Association ! Don't think that for ever ' the wind will blow favourably and you will pass your days merrily '.

European Association ! Don't think that no one will be able to touch the end of your hair, because the Government are behind your back. Never think that you will be able to carry on your business peacefully and by sucking the blood of this country you will be able to carry on unrestricted oppression in the heart of the country. In future, official or non-official, none will have any escape from our hands."

Then it addresses the Detective Department in the same strain, and concludes with these words :

"Rai Bahadur ! Khan Bahadur ! Rai Saheb ! Open your eyes and look to the future. The God of Revolution is awakened. Victory to him ! There is no other path than this one.

Bande Mataram !"

It is literature like this which is spreading terrorism in this country. Sir, I do not want that the liberty of the press should be restricted, but I do certainly want that the press which publishes or issues venomous literature like this should be suppressed with an iron hand.

Mr. N. M. Joshi (Nominated Non-Official) : But it does not give the name of the press ?

Sir Muhammad Yakub : It has not given the name of the press, but it is for Government to find out what press it is. Sir, I do not want Government to punish the innocent, but what I want Government to do is this that when once the guilt is brought home to any individual, then they should act with courage and with firm and resolute hands. I will not repeat the famous sentence of Mr. Winston Churchill that "you must govern or go", but I will only say that Government should give up their vacillating policy of trying to please those who will never be pleased, and they should abandon the policy of sacrificing their friends in an endeavour to please those who will never be pleased with them. Government should abandon the policy of breaking their own laws and rules for the sake of affording facilities to those who have taken the vow of independence and have made it their creed to crush the British Government in this country. The Government ought to rule with justice and firmness in this country and their policy should be firm and resolute. I quite agree that the spread of crimes, like these, should not work as a stumbling block in the way of our progress. I quite agree that provincial autonomy for India should not be postponed on account of these crimes just as giving power in the centre has been postponed, because the Indian princes would not make up their minds. I say, that in spite of these crimes, progress of India should remain unchecked, but, at the same time, the Government should at least as much care for their friends as they have for their opponents. I sympathise with Sir Alfred Watson in his misery. I wish to congratulate him, and the innocent lady who was driving in the car with him, on their providential escape and I wish them a speedy and complete recovery. With these words, I associate myself with the motion that has been moved.

Mr. B. V. Jadhav : Sir, the Bill now under consideration of the House (Laughter).....

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Does the Honourable Member wish to address the House on the adjournment motion which is now under discussion ?

Mr. B. V. Jadhav : No, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Mr. Das.

Mr. B. Das : Sir, first of all I rise to offer my sympathy to Sir Alfred Watson, the Editor of the *Statesman*, not only as a Member of this House, but as one who belongs to that profession, the profession of journalists of which Sir Alfred Watson is a towering figure. I also offer him my congratulations that he has escaped with a slight injury. Living as I do on the borderland of Bengal, the repercussions that happen in public life there always react in my province. Although my friend, Sir Muhammad Yakub, in his enthusiasm almost challenged me and condemned me that I half-heartedly criticised the terrorist movement, my friend who lives in far away Moradabad does not know and does not also sympathise with the Congress movement and whenever he spoke he combined Congress activities with terrorist activities and, when I asked him to lay that red leaflet on the table, he said that I sympathised with the terrorist movement. Why is it then that my friend read out half of that terrorist leaflet ? Thereby does he not sympathise with the terrorist movement or terrorist propaganda ? I will leave him at that. I have every sympathy with my Honourable friend, Mr. George Morgan, whom I hold in high esteem and high respect ; and when I see the least ripple in his temper, I feel perturbed, because I have come to regard him as a man of great sober thought and one who does not like to ruffle his temper if he can help it. But the remedies he suggested are not the true ones. I am at one with him as regards his condemnation of terrorist crimes and terrorist movements in Bengal, in India and elsewhere in the world ; for, I am a follower of Mahatma Gandhi ; I belong to the school of non-violence and I have faith in non-violence ; and, I believe, India will attain liberation through non-violence ; but yet I differ very much from the remedies which my friend, Mr. Morgan, suggested, that Bengal should have no provincial autonomy, that we should arm the Government with powers to utilise all the army at their command, to suppress terrorist crime. Although my friend was a little perturbed this afternoon, while my esteemed friend, Mr. Munshi, was speaking, if he had listened to him he would have seen that not all the army that parades the city of London or Petrograd could prevent an anarchist from throwing a bomb at some Ruler or some big Minister. These terrorist crimes are suppressed crimes ; they are not mass movements, that the action, my friend suggests, can be given effect to. But I want to ask my friend, Mr. Morgan, and the gentlemen who sit behind him, not to ruffle their spirit and not to ruffle their temper ; they belong to a democratic country and I want them to bring out democratic methods for the solution of the present problems in India. I wish to remind them of this. I do not live in Bengal, but I am a regular reader of the *Statesman* and I read of those movements a year or two ago when younger men of the European society in Calcutta organised a red

royalist movement as a counter to the terrorist movement. That does not help to create calm atmosphere in the country. The superior democratic training of the Europeans should entitle them to counsel to the Government and the country how to end the root cause of the terrorist movement. My Honourable friend, the Home Member, may pass hundreds of Bills like the one introduced this Session, but the movements that come from the underworld, that come from disappointment and the system of hopeless education which provides no employment and no future to the people that are educated, that movement cannot be suppressed by a newspaper agitation or by hundreds of Ordinance Bills that you may pass. My Honourable friend, Mr. Morgan, brought out the great name of Mahatma Gandhi; and my Deputy Leader, Mr. Ranga Iyer, also alluded to that incident when a great Viceroy and a great Secretary of State released Mahatma Gandhi so that the terrorist movement should not have raised its head; and, I believe—though I cannot quote it from memory—that Mahatmajī warned the terrorists and asked them to lie low so that he could settle the future destiny of India with the British. We know what happened. Mahatma Gandhi went to England and came back empty handed as my friend, Mr. Morgan, knows it well from the secret Circular known as the “Benthall circular”. Mahatma Gandhi came back “empty handed” and to-day Mahatma Gandhi, the greatest man, who can control all the world, cannot control these young boys and girls who have to-day got out of all control. And when a wise friend of mine, Mr. George Morgan, advises “do not give provincial autonomy to Bengal”, he does not say anything about the central responsibility.

Mr. G. Morgan : I did not say, do not give provincial autonomy to Bengal. I said it was a question as to whether it was advisable, under these circumstances, to go on at once with provincial autonomy, so long as the terrorist crimes continue.

Mr. Gaya Prasad Singh : You will make the situation worse.

Mr. B. Das : I was glad to know what my friend thought, but the remedy he suggests would be worse. This terrorist propaganda and anarchist movement is absolutely foreign to the Indian climate, Indian soil, Indian culture and Indian religion, and if, to-day, the Government or the people of this country allow such a movement to grow and assume enormous proportions, it will be very difficult for future Governments, whenever Provincial autonomy is given to Bengal according to the advice of my friend, Mr. George Morgan, and the Europeans of Calcutta, it will be very difficult for the Swaraj Government where, I think, one of the members of my friend Mr. George Morgan's community will be a member of the Cabinet, because they hold 25 seats in the Bengal Council, it will be very difficult then to suppress the terrorist movement. So my advice is, while I condemn wholeheartedly all terrorist crimes and anarchist movements in the country, let us all press upon the Government of India and also upon the British Government to find an immediate solution, and let us press on the Government to free Mahatma Gandhi so that he may settle the future constitution of India so that no terrorist movement may raise its little head again.

The Honourable Sir C. P. Ramaswami Aiyar (Leader of the House) : Mr. President, it was not long ago that I had to bring to the notice of the House the lamentable news of what took place in Chittagong or near Chittagong, and to-day, we have news of something that took place in the heart of Calcutta to a man who was enjoying his evening drive with his Secretary and his chauffeur, alongside of which another high powered car was being driven in which there were people so thoroughly armed that they were able to fire a few rounds of 10 shots into the car that went before. The mere recital of what happened demonstrates firstly a sinister and clever organisation. In the second place, it manifests a callous disregard for the sanctity of human life and all the decencies of human intercourse which, I repeat what I said the other day, is uncharacteristic and entirely foreign to the essentials of our life and our culture. Fight him if you like, but to aim a shot at a man who was driving in his car for his constitution is not only hitting below the belt, but is contemptible, ignominious and cowardly. (Applause from the Nationalist Benches.) To-day I feel ashamed that an Indian should have done this. If I were not sure that this was a passing madness, if I were not certain that this would not be the India of to-morrow and the day after, my sorrow would be profound and everlasting. Face to face with this crisis, the one thing I would emphasise, the one thing I would insist upon, is that this is not a moment to be downhearted, this is not a moment for suspicion. This is a moment for conjoint action, for collaboration, for harmonious and co-operative effort (Applause from the all sides of the House), yet to exorcise the demon and not to cave in. Therefore, I would appeal to every one in this country to come together and get rid of this terror and this threat so as to make it impossible for these things to recur, but not to allow these things to deflect us from the great and glorious destiny that is India's by right. (Applause.)

Mr. F. E. James (Madras : European) : Mr. President, the purpose of moving the adjournment of the House was not that this part of the House should indulge in any hysteria or should show any undue excitement, however tense the emotion under which we might be labouring. Nor was it our intention merely to show a demonstration of our horror, because it happened that members of our own community have been recently attacked. We have chosen this moment deliberately, we have chosen this particular issue for a very definite purpose. We hold that all these things, whether it is the murder of an official or a non-official, whether it is the murder of an Indian or a European, with equal abhorrence. ("Hear, hear" from the Nationalist Benches.) What we do wish to impress upon the House is, that this cult of terrorism which is growing,—I wish I can be as sanguine as the Honourable the Leader of the House and think that it is merely a passing phase,—this cult of terrorism has been growing in recent years, and is growing so fast and so rapidly and so powerfully that unless it is checked before many months, the whole of Bengal will be in its throes ; and we wish to call the attention of every Member of the House to this important fact. Every shot that is fired at an official or non-official is a blow at India's freedom, and this House should realise the seriousness of the situation. Mr. President, it is not surprising that the members of my own community who have hitherto, I make bold to

say, co-operated to the fullest possible extent in bringing about that constitutional reform which all India desires, it is not surprising that in the face of these things the members of my own community, particularly in Bengal, should halt and say "whither are we going". If this thing is allowed to remain, it is not surprising that they ask, "Can we go forward? Is it wise, is it desirable for us to go forward?" And the question which this House has to decide is, whether India's freedom shall halt while Bengal welters in blood.

There are three courses which have been suggested to this House. One is to go forward unflinchingly, with courage, taking risks. Another is to go ahead, leaving Bengal out of constitutional reform, until this movement has definitely been suppressed and brought under control. I may say, in passing, that that particular suggestion, when made to a prominent leader of the Congress movement, some time ago, was received by him with some promise of support. And the third suggestion is one which no Member of this House would like to adopt—namely, that all constitutional reform in this country should be stopped until this thing is dealt with. This is not a time for levity, and I am surprised at the light-hearted manner in which Members laugh. This is a time for tears, and not for laughter.

Sir, there are two things that we wish to say in this connection. The first is a question addressed to the Government of the day. My community, particularly in Bengal, would like to know from the Honourable the Home Member as to whether he is satisfied, completely satisfied, with the powers which are possessed at present by the Government of India and the Government of Bengal for dealing with this terrorist movement. I do not think that any Member of this House will fail to sympathise with the difficulties of the Government of India, and particularly with the difficulties of His Excellency the Governor and the Government of Bengal. But are the Government satisfied that the powers, that they have, are adequate for the situation? Are the Government satisfied that they have gone as far as they can go in concentrating all their forces in all directions, all their energies in every department to meet this one menace which, unless met, will put away for all time any thought of advance along constitutional lines? That is the first question, and that is addressed to the Government of the day. And the second question is addressed to my Honourable friends, the Members of this House, and, if I may say so, particularly to the Members of this House representing the great province of Bengal. Sir, the time has come when it must be stated in plain and unmistakable language that sympathy is not enough. There must be a more active mobilising of public opinion on this matter than is expressed merely by Resolutions of sympathy or speeches of condolence in this House. I admit the difficulties, I realise the special difficulties in which some of my friends from Bengal are placed. But I do suggest to them with very real earnestness and sincerity that the time has come when it must be made clear that every man, who is not actively against this movement, is, in fact, for it; and that every man who merely contents himself with expressing opinions of sympathy, without actually co-operating in mobilising public opinion against it, is failing in his duty; nay, he is doing more than that, he is actually committing the offence of allowing a movement like this to grow without using the forces which are latent in the community to stop it. Sir, it may fairly be said by the Members of the House, to whom I am addressing these remarks, that it is easy to talk about active mobilisation of public opinion.

5 P.M.

[Mr. F. E. James.]

I, therefore, make a practical suggestion for the consideration of this House, and I make it on the authority of my own Leader. We would be prepared, in fact we are now prepared to invite the Honourable Members, particularly those coming from Benal, to meet us within the precincts of this House either this afternoon or to-morrow, in order that we and they may try and find out some practical means of putting the sympathy that is being expressed in this House to practical use. I hope, Sir, that the Members of this House, to whom I am addressing specially these remarks, will respond to this invitation in the spirit in which it is made.

The Leader of the House, in his closing remarks, spoke of the need of courage. I may say, Sir, that my own community is not wanting in courage. That courage has been exemplified in the career of Sir Alfred Watson himself. Shot at once, he went back to his post, refusing a guard and continued using the gifts of his brilliant journalism in the pursuit of those ideals for which he and his paper stand. (Cheers.) I say, that is an act of courage; and there are many men in my community who are as courageous as Sir Alfred Watson. There will be no courage wanting from us. May I appeal to the well-known courage of the Bengali Members of this House? I have lived amongst them. I have known many of them as my friends. Once you touch the heart of a Bengali, he is your friend for ever. (Cheers.) Once he is attracted to a great ideal, his courage knows no bounds. May I suggest, that my Honourable friends and we should join together in the pursuit of an ideal than which there is no greater to-day,—the ideal of stamping down this menace which is fettering India's progress to freedom, stamping down this threat which, unless it is met with courage and persistent courage, nay, courage regardless of death, will strangle the very life of Bengal herself. (Cheers.)

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : I am happy to find that my Honourable friend, Mr. James, has, after all, made a constructive suggestion which deserves every consideration at our hands. I intended to speak at a much earlier stage of the debate, but I must frankly confess that much as I admire my Honourable friend, Mr. Morgan, much as I sympathise with the issue which he has brought forward, and much as I sympathise with the victims of this terrorist outrage, I could not help feeling rather unhappy that he made certain observations without much consideration. What we want really is to diagnose the disease before we can suggest any remedy. My Honourable friend, Mr. Morgan, has tried to hold the system of education in Bengal responsible for it. I do not know.....

Mr. G. Morgan : Not the system, but the administration of education in Bengal.

Mr. K. C. Neogy : Whatever it is, there is absolutely no difference. I can assure my Honourable friend between those who sit on this side and his own Group with regard to the desirability of contriving some effective measure for grappling with the situation. But, then, what I want to impress upon my Honourable friend is, that we must proceed in the right manner and try to find out the root cause of this disease and then apply the right remedy. While, on this point, I want to cite the testimony of no less a person than Sir Stanley Jackson who retired from the Governorship of my province only very lately, testimony with regard to terrorism in Bengal. Terrorism in Bengal, said Sir Stanley Jackson in an interview

which he gave to a British journalist, shortly after his arrival in England, is still rather serious, but, during the past two months, there has been a marked change in public opinion on which you must depend. Sir Stanley Jackson himself has borne testimony to the fact that there has been a good deal of change in the public opinion which might have been dormant for some little time. I can assure my Honourable friends that public opinion in Bengal is quite alive to the danger of this movement. Later on, Sir Stanley Jackson says this : “ Some terrorists ”—this has reference to the suggestion that my Honourable friend let fall without much consideration, I suspect, that it should be considered very seriously as to whether the course of reforms should not be stopped so far as Bengal is concerned, till this evil is rooted out—“ are actuated by strong patriotic feeling and others by strong race hatred ”. Now he divides the terrorists into two classes, terrorists who are actuated by strong patriotic feeling and those who are actuated by strong race hatred. Certainly, it is no remedy to suggest that if you want to put a stop to the nefarious activities of these two classes of people, the reforms should be stopped so far as Bengal is concerned. How are you going to root out the evil so far as that particular class of terrorists are concerned who are actuated by patriotic feeling ? Surely my Honourable friend will realise, on calm reflection, that the measure, that he has suggested as a remedy, will certainly not do in this particular case. Then, what about the terrorists who are actuated by strong race hatred ? Surely, the remedy is to end any undue race domination on the part of the members of that group to which he belongs. That, again, I maintain, is connected with the question of reforms in India ; and I, therefore, maintain, though I am quite willing to join any conference that my Honourable friend, Mr. Morgan, may summon either this evening or to-morrow (*Mr. Gaya Prasad Singh* : “ Not this evening ”) that, as far as I can judge, it is the granting of reforms in a very liberal manner that is above everything else needed at the present moment.

Sir Abdur Rahim (Calcutta and Suburbs : Muhammadan Urban) : Mr. President, there is no one in this House who does not wholeheartedly condemn this latest outrage in Calcutta. I have not the privilege of knowing Sir Alfred Watson, but it does not make the slightest difference what the position of the attempted victim is in his community or in the public life of the province. My position is, that an outrage of this character committed on an innocent person, whichever community he may belong to, is to be condemned without the least reservation. I think my friends, Mr. Morgan and Mr. James, will realise that whatever we may feel, and I fully sympathise with them on this occasion and I am not at all surprised that they are excited with deep emotions, it is not an easy matter to suppress a movement of this character. Sir, if it were in the power of any one of us or any group of this House, whether on this side or on the other side, to suppress this movement, we would have done it. It is a subterranean movement. It is a secret conspiracy. We do not know how it works and, if it is the business of any one to find out, it is the business of those who have got power at their command, who have got the means and the resources of finding out what is wrong. It does not befit any Honourable Member of this House to vent his wrath on people who are as helpless as himself. Threats will not do. Mr. James does not realise what injury he is doing by holding out threats.....

Mr. F. E. James : I should like to make it perfectly clear that I held out no threat whatsoever.

Sir Abdur Rahim : Mr. James ought to realise, as I know Mr. Morgan does, that there are very large sections of the population in Bengal who have not the slightest sympathy with any disorder, not to speak of terrorist outrages. I do not know what the strength of the terrorists is. Perhaps the Home Member could give us some idea. It must be very small, though they are a dangerous lot. Are you going to punish the province of Bengal for their crimes and, do you think, the position will be improved by any such punishment ? Most certainly not. I know, in moments of excitement, we are liable to talk at random and I do not blame either Mr. James or Mr. Morgan for putting forward propositions which, on calm reflection, they will realise, are not sound or practicable. Their suggestions will only make the situation much worse. It is the primary duty of Government to put down crimes of this character like other crimes. I know that, having regard to the nature of the movement, it is a difficult task even for the Government, however strong they may be and whatever weapons you may give them, to suppress such a movement. It must take time. There have been errors in the past. There have been errors in the policy of education, in the nature of education Government are imparting. Whose error is that ? Why have they not reformed the education that is being given ? Why have they not been educating the general population ? However, this is not the time to recriminate. All that I wish to say is, that I do not know whether the members of the European Group think that we are really half-hearted in condemning this outrage. If they think so, they are grievously mistaken.

Mr. F. E. James : The Nationalist Press.

Sir Abdur Rahim : I do not know about the Nationalist Press. I do not know whether the Nationalist Press is represented here. But we are here, and I challenge any one to contradict me when I say, that every one of us sincerely condemns this crime. (Loud Applause.) Sir, it was also said that it is not enough to express mere sympathy,—we must actively help the Government. I tried to find out exactly what the method was of helping the Government that was suggested. No one has been able to suggest what men like ourselves can do to help the administration. If we give them certain advice, they might say, “No, we cannot accept it”. That is our difficulty. Of course it is primarily for them to find out the remedies. We can only say that we, who are peaceful citizens who believe in law and order and who believe in the progress of the country, have no sympathy whatever with crimes of this nature or of any other kind. Sir, all the same, if my Honourable friends opposite have any particular course to suggest to us, which will help the administration of Bengal to meet this movement, we shall be ready to consider their suggestion. But, I am sure, they will find out, when they explore the possibilities, that there are great difficulties and limitations in our way. It is the Government of Bengal that must find out the means ; and my own opinion is that even with the law, as it is, even with the resources which are at present at the command of the Bengal Government, they will be able, if they set about the right way, to suppress these crimes. (Applause.)

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I should not like to cast a silent vote on this very momentous question. I have heard, Sir, Honourable Members on both sides discoursing upon this most lamentable question. We are all agreed, and there can be no doubt, that the recrudescence of terrorist crime in Bengal is a serious menace to peace and order in that province, and that, in spite of the efforts that the Government have made of recent years, there seems to have been no perceptible diminution in the occurrence of such crimes in Bengal. As for the outrage recently reported, everyone of us sympathizes with Sir Alfred Watson and congratulates him on his escape from the dastardly onslaught made upon his life. But, while our sympathies go out to Sir Alfred Watson, we are naturally anxious to see that these outrages, which are multiplying and occurring with such frequency, are put a stop to by the Government ; and it is upon this point that I discern a difference of opinion between the various Members who have spoken on the subject. My friend, the Honourable Mr. Morgan, is of opinion that the administration of education in the schools and colleges of Bengal is responsible for this species of crime. Whether this is so or not, I am not in a position to judge. My friends in Bengal are in a position to express their views on that subject, and I have no doubt that the Government of India are in a better position than many of us to ascertain the value of the suggestion made on that score by the Honourable Mr. Morgan. The second suggestion made by the Honourable the Mover is that public opinion should be mobilised against these crimes. I have no doubt, Sir, that public opinion, if it is sufficiently mobilised, will go far to diminish this species of crime. It may not eliminate it, but there would be a notable diminution of crime when Indian public opinion expresses itself in unmistakable terms against this recrudescence of terrorism in Bengal. On these two points, therefore, we are more or less in agreement. But when we come to the last point raised by the Honourable Mr. Morgan, namely, whether Government should not consider whether it would not be advisable to postpone the reforms until terrorism subsides in Bengal, that is a question upon which one may take leave to differ. I have seen resolutions passed by the European Association in Bengal and elsewhere to that effect. But I have not been able to connect terrorism with the suggestion made from that quarter. So far as I have been able to judge, the underlying purpose of terrorism in Bengal and elsewhere is different in that the terrorists are against all constitutional reforms. They are against the Congress, because they consider the Congress to be a pacifist organisation. I have myself seen leaflets in which the terrorists have, in unmistakable terms, denounced the Congress. They are against all "constitutional" progress, because they believe constitutional progress is slow and halting. They want reforms in another way. The revolutionary leaflets that have been found, either on the person or in the houses of suspected terrorists, make it abundantly clear that the prime object of the revolutionaries in Bengal and elsewhere is to make one clean sweep not only of the bureaucracy, but also of the constitutional party in the country—whether it is the Congress or the representative institutions like this Honourable House and the Provincial Councils. They are more or less akin to the Soviet method of destroying all vestiges of the present system of law and order and orderly government.

[Sir Hari Singh Gour.]

Now, if that be the case, and I venture to submit that it is the case, then how will the postponement of the reforms bring about the subsidence of this movement? On the other hand, it will set a premium upon those constitutionalists in Bengal who are pledged to an evolutionary method to join the ranks of those mal-contents who become revolutionaries and terrorists in the end. There would be a sliding from the right to the left and that process of recruitment has been going on since the last ten years. Take the case of well-known communities and commercial bodies in Bombay and Bengal, the Marwaris and the merchant class generally. We all know that ten years back, they took no interest whatever in Parliament. In Bara Bazar and elsewhere, they did their work, shut up their shops and went into the evening to enjoy their well-earned rest. But what is the position now? That idle rich class, as the terrorists call them, the mercantile class, the professional class, the trading class, has become active politicians. Not only have they become active politicians, but they are drifting towards a progressive policy which would culminate in the strengthening of the terrorist movement. We must take the facts as we find them. And what is all that due to? It is due to the fact that this movement is being fed by the delay in the evolution of India's progress towards its appointed goal of self-government. Therefore, if you were to stop the reforms in Bengal, you would be strengthening the seed of discontent and creating a larger body of discontented people in that province and creating a situation that would get out of hands. I look at the question from a detached standpoint and submit that the postponement of the reforms has nothing whatever to do and is certainly not a cure for the terrorists movement in Bengal.

Now, Honourable Members may ask, what else is the cure? The cure is well-known. The terrorists themselves in the leaflets, which have been read, say that they want a self-government. (*Honourable Members* : "They want no government.") At any rate, when the discussion took place on the floor of the House—and whether it is in the leaflets or not, I do not know—it cannot be denied that the terrorists want to destroy the present order of things, so that they may be able to rule over the country in some form of democracy or it may be the Soviet form of government. That seems to be the underlying principle of this terrorist movement. Now, if we strengthen the law in the direction of what Sir Muhammad Yakub has pointed out, namely, by strengthening the Press Act and by passing certain other measures, how are we going to seize hold of these unauthorised publications which do not come from any recognised press at all? We do not know where they come from. The Press Act deals with the recognised press, and, consequently, the leaflets that issue have nothing whatever to do with the Press Emergency Law now in force or any Press Emergency Act that you may bring into force in future. The position, therefore, is a very difficult one and I am glad that the Honourable Mr. James has invited a few Members to confer with him and his Group upon what practical line of policy to adopt and what concrete proposals to make for the purpose of bringing under this growing menace to peace and order. That, I think, is a valuable suggestion, but because that suggestion has come from the Honourable Mr. James he will recognise that the suggestion that has been thrown out by the European Association and feebly voiced by the

Honourable Mr. Morgan that no Reforms and no Revolutions seem to be no cure at all for this growing symptom of lawlessness in the province or Bengal. I, therefore, submit, Sir, that we might perhaps on this occasion confine ourselves to recording our sympathy with Sir Alfred Watson and publish to all concerned our utter detestation and abhorrence of the terrorist crimes which we regret are increasing in volume and number and which are a disgrace to the entire Indian nationalist movement. Having done that, I am quite sure, that the Honourable Mr. Morgan will see fit to withdraw his motion.

Mr. Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : Sir, on my own behalf and on behalf of my Party, I condemn this outrage and other similar outrages in unequivocal terms and without any reservation. We sympathise with Sir Alfred Watson and congratulate him and the lady who was accompanying him on their miraculous escape.

The Honourable Mr. H. G. Haig (Home Member) : Sir, I am convinced that the whole House has been profoundly shocked by the news that we have received during the last few days from Bengal. I do not think, Sir, there can be any doubt of the universality of that feeling. Government share those feelings as keenly as, and perhaps more keenly than, any other Members in this House for, apart from the ordinary feelings of humanity that are outraged by these events, they have a responsibility as far as possible to prevent such crimes and, if they cannot be prevented, to bring the offenders to justice and to punish them. That Sir, is a responsibility that Government fully realise. It has been suggested by some Honourable Members in the course of this debate that the powers that Government possess are not adequate and that the action they have taken is not sufficient. I can only assure the House that the Government of India and the Government of Bengal have been in the closest consultation with regard to the measures that are necessary to take against this very formidable menace.

The Government of Bengal, only a few weeks ago, passed in their Legislative Council a new Act directed towards the suppression of terrorism. The Government of India are inviting this House in the next Session in November to pass certain supplementary legislation in pursuance of that Act and, I trust, Sir, that when those proposals are put forward, they will receive the full support of this House. Whether any further powers are required, I cannot at the moment say. But if it should prove, on further consultation, that further powers are required, we shall not hesitate to ask for them.

Now, Sir, the object of this motion. I understand, is to call attention to a very serious state of affairs in Bengal. It is not, as these motions normally are, an attempt to censure the Government for action or inaction. It is rather, as I interpret the feeling of the House, a call to the public (Hear, hear) and that being so, I think that the most convenient course, so far as Government are concerned, will be to accept this motion which, I hope, will be carried unanimously by the House. Now, Sir, I have said that in the course of this debate we have had a call to the public. There are some perhaps who feel that this movement is directed solely against the present Government or against those of a particular race. I believe that my Honourable friend, the Leader of the Nationalist Party,

[Mr. H. G. Haig.]

is right in thinking that that is a profound mistake. Do not let us delude ourselves in the belief that, with a particular change of Government, this terrorist movement will cease. I do not believe that, Sir, for a moment. I too have seen, as the Honourable the Leader of the Nationalist Party has seen, recent leaflets issued by the terrorist party which left on my mind the very clear conviction that they are determined to get their own way not against the present Government only, not against Europeans only, but against any of their countrymen who have the temerity to differ from them. (Hear, hear.) This is a problem, Sir, not merely for the Government, but for the people of Bengal. I admit, the Honourable the Leader of the Independent Party said quite justly that the immediate measures for the suppression of this movement must be taken by the Government. We do not expect, Sir, that individual members of the public in Bengal will, by their individual efforts, be able to trace out and suppress terrorists. But, Sir, what we do expect and what I urge them to do, not only in our interests, but, in their own interests, is to mobilise public opinion. (Hear, hear), to make it strong, vigorous and lively (Hear, hear), for, there is no doubt, Sir, that in the past, this movement has been fed and supported by a sentimental sympathy amongst certain sections of the population in Bengal. (Hear, hear.) That, Sir, is the help that the Honourable Members opposite can give and which, I hope, they will, with all their efforts, devote themselves to bringing about. (Applause.)

Mr. A. H. Ghuznavi (*Dacca cum Mymensingh* : Muhammadan Rural) : Sir, after throwing this leaflet broadcast and posting them throughout Calcutta, the terrorists have started in right earnest on their terrorist activities. This leaflet says that the terrorists are determined to shed blood and they call on the country at large to rise up, declaring that the Congress has failed to achieve its real purpose as the Congress is run by people with self-interest. It condemns the non-violent policy of the Congress. The leaflet further declares that non-violence can never produce political freedom, but only blood can do that. The terrorists add that they are not only out against Europeans, but also against their own countrymen who help the Government and who will be content with Dominion Status. They want complete independence. Now, Sir, after this kind of publication, what can we expect ? Why should they not take up pistols against every European or against every Indian who supports the Government ? Here is a photographic reproduction of the front page of the issue of the *Calcutta Municipal Corporation Gazette*. What does it say ?

“ Execution of Dinesh Gupta, Corporation’s Tribute, Meeting Adjourns.” “ The Corporation of Calcutta expressed its sorrow at the execution of Dinesh Gupta and adjourned its meeting on Wednesday, the 8th July. When the Corporation assembled, Councillor Bhupendra Nath Banerjee moved : ‘ This Corporation records its sense of grief at the execution of Dinesh Gupta who sacrificed his life in the pursuit of an ideal ’. The House adopted the Resolution standing. On the motion of Councillor Madan Mohan Burman, the meeting was adjourned till Friday, the 10th July. The Mayor, in associating himself with the Resolution, paid a tribute to the courage and devotion of the deceased.”

Well, Sir, that is the sort of circular which is printed in the Press and which encourages these assassins to continue their activities and their

terrorist movements. Sir, only last Monday, we condemned the cowardly outrage that was committed on last Saturday night at Pahartali Railway Institute. To-day we are condemning the cowardly attack that was made on the life of Sir Alfred Watson. Mr. President, if any assurance is needed, I may tell you that the Muslim community abhors and detests these outrages.

Mr. Gaya Prasad Singh : Why do you get so much excited ?

Sir Muhammad Yakub : Don't be frivolous.

Mr. A. H. Ghuznavi : The Muhammadan community condemns these cowardly assassinations and anarchical crimes and all terrorist activities in all its forms. (Hear, hear.) Sir, as I said the other day, we should not content ourselves with condemning these terrorists only, but, Sir, as I have shown just now, we should strongly denounce those who, by their writings, by their actions, and by their speeches, extol these deeds of violence and eulogise assassins as saints, martyrs and heroes. At the same time, Sir, I must say that we cannot exonerate Government from the charge of apparent inaction. What have they done in Calcutta, I should like to ask them—after this publication by the Corporation of Calcutta what action have they taken to suppress those publications in Calcutta ? They have done nothing. They have surrendered and taken no action whatever. And it is said, that when Government are approached, they say they are helpless and cannot tackle the situation. Is it therefore surprising, I ask, that by this inaction of Government these misguided youths are led to believe that by shooting a few dozen or a few officials and non-officials they will be able to completely demoralise the Government and bring them down to their knees ? And, by this, they think they can hasten the attainment of Swaraj. Sir, political progress or Swaraj cannot rest on the foundation of assassinations and anarchical crimes. But let me warn Government that the time has come when they should awake from the deep slumber of inaction and realise their full sense of responsibility towards the vast majority of the law-abiding people of India who cannot indefinitely allow themselves to be trampled under foot by these enemies of peace and progress. The tyranny of a clamorous minority is becoming intolerable and you must govern or get out.

Mr. H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I am sorry that my Honourable friend, Mr. Ghuznavi, should have tried to exploit this grave occasion for the purpose of introducing a controversial and offensive note. My Honourable friend, Mr. James, in a very well-reasoned and eloquent appeal asked for our co-operation. The Honourable the Home Member endorsed that appeal, and I am certain that I am speaking on behalf of every Member on these non-official Benches when I say that this appeal has found a warm and whole-hearted response in our hearts. What is the use of creating dissensions, emphasising our differences, when our whole object to-day should be to find out how we can all, unitedly by our efforts, meet this menace which threatens to ruin the whole fabric of our constitution ? And, Sir, the only way, in which we can strike at the root of this terror which to-day is stalking the province of Bengal, but which to-morrow will stalk every part of the land, is by whole-heartedly co-operating with our friends on the European Benches, with our European fellow-citizens in all parts of the country with a view to discover how we can remove the root causes

[Mr. H. P. Mody.]

of the evil and stamp out this terrorism. Sir, just as my Honourable friend has appealed to us, I should like to appeal to him and his friends. I can understand the laceration of their feelings. Considering the provocation they have had, the way in which their nerves have been on edge and their tempers have frayed, they have expressed themselves with a considerable amount of self-restraint. My appeal to them would be to preserve their courage and the evenness of their temper. Let them remember what Lord Hardinge, on a memorable occasion, said to Sir Guy Fleetwood Wilson. When, very shortly after the dastardly outrage perpetrated upon him, Sir Guy Fleetwood Wilson saw him, the very first words of that great Englishman were, "No change of policy, Wilson". I would ask my friends,—and that appeal has become necessary, because of some unguarded utterances that have fallen from the European Benches,—not to lose their heads. The way to strike at the root of terrorism is not by crying a halt to reforms, but by the mobilisation of public opinion, European and Indian. And I hope, Sir, that this mobilisation of public opinion will be accelerated by this latest and most dastardly outrage on Sir Alfred Watson.

Mr. G. Morgan : Sir, after what has fallen from the Honourable the Home Member and after what I have heard from Honourable Members in this House, I am satisfied that the general feeling is that terrorism must be tackled and that public opinion must be mobilised. I am satisfied with the position and, under the circumstances, I would ask leave of the House to withdraw my motion. In doing so, I would like to say that, with regard to what we have put forward, *viz.*, to confer with our friends on the other side of the House, I hope they will co-operate with us, and I trust my Bengali friends,—who are all personal friends of mine,—will make a point of coming and discussing the situation.

The motion was, by leave of the House, withdrawn.

The Assembly then adjourned till Eleven of the Clock on Friday, the 30th September, 1932.

LEGISLATIVE ASSEMBLY.

Friday, 30th September, 1932.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

MEMBER SWORN.

Mr. Tin Tüt, M.L.A. (Government of India : Nominated Official).

QUESTIONS AND ANSWERS

APPOINTMENT OF INDIAN TRADE COMMISSIONERS IN FOREIGN COUNTRIES.

980. ***Mr. H. P. Mody** : (a) Will Government be pleased to state how far they have progressed with the scheme of appointing Indian Trade Commissioners in various foreign countries for the development of Indian Trade ?

(b) Is it a fact that since 1929 the Indian textile trade in East Africa has been gradually declining and that in 1931 the value of Indian exports to East Africa fell to £443,284 as compared with £774,170 in 1929 ?

(c) If the answer to part (b) is in the affirmative, are Government prepared to consider, if they have not already done so, the desirability of immediately appointing an Indian Trade Commissioner in East Africa ?

(d) Will Government be pleased to state whether they have received any representations with regard to the appointment of a Trade Commissioner in East Africa, and if so, what action they have taken or propose to take in the matter ?

(e) Are Government in a position to state the names of countries which have their trade agents in East Africa and the volume of the trade of each of these countries with East Africa in the years 1929, 1930 and 1931 ?

Mr. P. R. Rau : (a) An Indian Trade Commissioner has been appointed at Hamburg and for the post at Milan an officer is at present undergoing training in India. Further progress with the scheme has of necessity been held up owing to the existing financial stringency.

(b) Presumably the Honourable Member is referring to trade in cotton textiles. I have been unable to verify the figures quoted by him as the destination of the exports of the various classes of cotton textiles is not given in detail in all cases in the Accounts relating to the Sea-borne Trade and Navigation of British India for the Calendar year. Those accounts for the year 1931 show, however, that the value of exports to East Africa of " cotton piecegoods " , which form the bulk of such exports, amounted to about Rs. 93 lakhs in 1929 and Rs. 60 lakhs in 1931.

(1613)

(c) The Government of India are anxious to proceed with the sanctioned scheme for the appointment of Indian Trade Commissioners abroad but owing to the necessity for economy in public expenditure, they are reluctantly compelled to postpone the making of further appointments of this nature at present.

(d) Yes, and the representations are being replied to on the lines of my reply to part (c) of this question.

(e) The Government of India have no information.

REPRESENTATIONS *RE* DUMPING OF JAPANESE PAPER.

981. ***Mr. H. P. Mody** : (a) Will Government be pleased to state whether they have received any representations from Indian paper manufacturers or others on the subject of the dumping of paper from Japan, facilitated by the depreciation of the *yen*, and the disastrous effects of such dumping on the Indian paper-making industry ?

(b) If so, what steps do Government propose to take in the matter to see that the protection at present enjoyed by the industry is not rendered ineffective by such abnormally cheap imports ?

Mr. P. R. Rau : (a) Yes, Sir.

(b) The representations are being examined by the Government of India and, until this examination has been completed, I cannot say what, if any, action will be taken.

UNSTARRED QUESTIONS AND ANSWERS.

APPOINTMENTS OF HEAD ASSISTANTS OF THE TELEPHONE REVENUE ACCOUNTING OFFICES.

144. **Mr. Nabakumar Sing Dudhoria** : (a) Is it a fact that telephone is considered as a part of the Engineering Branch of the Telegraph Department and that telephone revenue accounting work was originally carried on in the divisional offices of the Engineering Branch ?

(b) Is it a fact that thereafter when the Telephone Revenue Accounting Offices were centralised in Calcutta and Delhi, these offices were placed under the administrative control of the Directors of Telegraphs (Engineering Circles) and rules to that effect are incorporated in the manuals of the department ?

(c) Is it a fact that even when these offices were decentralised and attached to the circle offices, these Telephone Revenue Accounting Offices were considered as forming part of the Engineering Branch of these circle offices ?

(d) Is it a fact that Engineering Branch clerks formed the personnel of the clerical establishment of these Telephone Revenue Accounting Offices ?

(e) Is it a fact that knowledge of the rules contained in some of the manuals concerning the Engineering Branch is necessary for the Head Assistants of these Telephone Revenue Accounting Offices and that these Head Assistants were required to be qualified lower selection grade clerks ?

(f) Is it a fact that lower selection grade clerks of the Engineering Branch had to pass in certain subjects which included Engineering Manuals which the lower selection grade clerks of the Traffic or the Postal Branch had not to pass through ?

(g) If the replies to part (a), (b), (c), (d), and (f) be in the affirmative, do Government propose to offer the appointments of the Head Assistants of the Telephone Revenue Accounting Offices to passed lower selection grade clerks of the Engineering Branch ?

Mr. T. Ryan : (a) and (b). Yes.

(c) Yes, up to August, 1931, after which the Engineering Branch clerks transferred to the office of a Postmaster General, with the exception of those attached to the technical Engineering section, were placed in the general clerical cadre of that office.

(d) The facts are substantially as stated by the Honourable Member.

(e) There are no Head Assistants in the Telephone Revenue Accounting Offices.

(f) Yes.

(g) As stated in part (e) above, there are no Head Assistants in the Telephone Revenue Accounting Offices. For promotion to the posts of Head Clerks in the lower selection grade in the various branches of the Circle Offices including the Telephone Accounting Branch, the former Engineering Branch clerks now serving in those offices, who have passed the lower selection grade examination, with the exception of those attached to the technical engineering portions, are eligible along with all other clerks in those offices, who are similarly qualified.

EXTRA STAFF IN THE TRAFFIC BRANCH OF THE POSTS AND TELEGRAPHS DEPARTMENT.

145. Mr. Nabakumar Sing Dudhoria : (a) Is it a fact that the Traffic Branch of the Posts and Telegraphs Department (Telegraphists and Telegraph Masters) are much in excess of the requirements of the department ? If so, what is the number of the excess ?

(b) Is it also a fact that this extra staff cannot be usefully employed ?

Mr. T. Ryan : (a) On 1st July, 1932, the latest date for which figures are available, there was an excess of 238 telegraphists and two telegraph masters, according to standards laid down some years ago. but I may mention that the question of the suitability of these standards is about to be examined by an expert committee.

(b) The surplus staff is being employed as far as possible as explained in the reply given in this House on the 13th September, 1932, to Mr. S. C. Mitra's starred question No. 208 to which the Honourable Member's attention is invited.

STOPPAGE OF FURTHER RECRUITMENT OF TELEGRAPHISTS AND TELEGRAPH MASTERS.

146. Mr. Nabakumar Sing Dudhoria : Has the attention of Government been drawn to the recommendations made to the Retrenchment Committee last year by some of the Service Associations that in addition to the

stoppage of further recruitment of Telegraphists and Telegraph Masters some of the existing staff be transferred to the Post Offices and that all vacancies in the Engineering Supervisors grades including telephone sections be recruited entirely from the existing surplus signalling staff, particularly as men with practical experience of long periods are available in the Department ?

Mr. T. Ryan : Government have not seen the recommendations which were addressed to the Retrenchment Committee by Service Associations.

EMPLOYMENT OF TEMPORARY ENGINEERING SUPERVISORS AND TELEPHONE SUPERVISORS.

147. Mr. Nabakumar Sing Dudhoria : (a) Is it a fact that some of the temporary Engineering Supervisors and Telephone Supervisors applied to the Government for their employment as Supervisors ? Is it a fact that outside recruitment for Engineering Supervisors was resorted to even when the department was overstaffed and the question of disposing of extra staff was engaging the serious attention of Government ?

(b) Do Government propose to re-consider the whole question and employ the temporary supervisors who had put in two years' service or so ?

Mr. T. Ryan : (a) The reply to the first part is : yes. The reply to the second part is also : yes, but the overstaffing was in other branches, the surplus men not being qualified for permanent promotion as Engineering Supervisors.

(b) No, as those concerned are not considered suitable for permanent employment as Engineering Supervisors.

PERMISSION TO CERTAIN POSTAL CLERKS FOR APPEARING IN THE LOWEST SELECTION GRADE EXAMINATION.

148. Mr. Nabakumar Sing Dudhoria : Do Government propose to consider the cases of those who were recommended by the heads of Postal Circles for being allowed to appear in the Lowest Selection Grade examination but were not allowed on the mere technical question of having put in more than seven years' service ? If not, why not ?

Mr. T. Ryan : No ; no such cases are traceable.

PROPOSED ABOLITIONS OF SOME POST AND TELEGRAPH SUB-DIVISIONS.

149. Mr. Nabakumar Sing Dudhoria : Is it a fact that some of the Post and Telegraph sub-divisions are likely to be abolished ?

Mr. T. Ryan : Yes.

PROMOTION OF MILITARY SUB-ASSISTANT SURGEONS TO THE RANKS OF SUBEDAR MAJOR AND THE KING'S COMMISSION.

150. Mr. B. N. Misra : Will Government be pleased to state :

(a) the percentage of Military Sub-Assistant Surgeons promoted to the rank of Subedar Major,

(b) the percentage of Military Sub-Assistant Surgeons promoted to the King's Commissioned rank, and

(c) what is the criterion for promotions referred to in parts (a) and (b) ?

Mr. G. R. F. Tottenham : (a) and (b). $1\frac{1}{2}$ and one per cent. respectively, of the sanctioned strength of Military Sub-Assistant Surgeons.

(c) Promotion is by selection, but seniority is also taken into consideration.

PROMOTION OF MILITARY SUB-ASSISTANT SURGEONS TO THE RANK OF KING'S COMMISSION.

151. **Mr. B. N. Misra :** (a) Is it a fact that while considering the question of promotion to the rank of Honorary King's Commission during the last three or four years only length of service has been taken into consideration and no importance was attached to the field or meritorious services of the Military Sub-Assistant Surgeons as also their seniority in the Army List ?

(b) Is it a fact that during the Great War fair chances were given to all the Military Sub-Assistant Surgeons to show their merits and win supernumerary promotion (*vide* paragraph 10, Appendix 27, Regulations for the Army in India) but now such supernumerary promotions won under very trying circumstances in the field have been ignored for further promotion ? If so, why ?

(c) Is it not a fact that in all other departments of the Government of India special promotions to the rank of Honorary King's Commission are made by selection and not by length of service ? Do Government propose to take necessary action to see that in future such promotions are made in accordance with the seniority in the Army list ?

(d) Is it a fact that Military Sub-Assistant Surgeons were given the benefit of their war service by way of accelerated promotions ? Is it a fact that such accelerated promotion is not taken into account when promoting that personnel to the King's Commission ? If not, why not ? Are Government aware that as a result of this their established seniority is virtually turned into juniority at the time of promotion to the King's Commission ?

Mr. G. R. F. Tottenham : (a) No.

(b) and (d). The answer to the first two portions of part (d) is in the affirmative. Sub-Assistant Surgeons who receive special promotion are borne as supernumerary in the new grade until they are absorbed by promotion in the ordinary course. When they are considered for further promotion, their seniority is reckoned from the date of their admission to the Department. Special promotion is a reward in itself and it is not the policy necessarily to prolong the effects of that reward throughout the remainder of the man's service.

(c) The answer to the first part is in the affirmative. The fact that an officer has received accelerated promotion in the past is naturally taken into account in making further promotions, but his seniority is reckoned in the manner described in the answer to parts (b) and (d).

NON-RETIREMENT OF MILITARY SUB-ASSISTANT SURGEONS HOLDING THE RANK OF SUBEDAR MAJOR.

152. Mr. B. N. Misra : (a) How many Military Sub-Assistant Surgeons have completed five years service in the rank of Subedar Major or have earned the full pension of their rank ?

(b) Is it a fact that in the army as a whole Subedar Majors on completion of five years service are compulsorily retired ? If so, will Government be pleased to state why this rule is not applied in the case of Military Sub-Assistant Surgeon ?

Mr. G. R. F. Tottenham : (a) No Subedar Major of the Indian Medical Department has served for five years in the rank. Four have earned the full pension of a Subedar Major, but none has so far earned the double rate admissible to an officer of that rank who has held Honorary King's Commissioned rank for three years.

(b) Yes. Last year the question of limiting the tenure of appointment of Subedar Majors and Honorary King's Commissioned officers of the Indian Medical Department was considered and dropped on account of the extra expenditure involved.

COMMUNITIES OF RETRENCHED MILITARY SUB-ASSISTANT SERGEONS.

153. Mr. B. N. Misra : Is it a fact that 150 Military Sub-Assistant Surgeons have been retrenched ? If so, will Government please state the number of Hindus, Muhammadans, Sikhs and Christians and the period of their service ?

Mr. G. R. F. Tottenham : It has been decided to reduce the cadre of Sub-Assistant Surgeons by 150, but so far only 74 Sub-Assistant Surgeons have actually been retrenched. Of these, 41 are Hindus, 15 Sikhs, 11 Muslims and seven Indian Christians. 29 of them had less than ten years' service, 25 between 10 and 20 years' service, 13 between 20 and 30 years', and seven over 30 years' service.

RETRENCHMENT OF MILITARY ASSISTANT SURGEONS.

154. Mr. B. N. Misra : Will Government please state what, if any, retrenchment is being made in the list of Military Assistant Surgeons ?

Mr. G. R. F. Tottenham : The cadre of Military Assistant Surgeons has been reduced by 10.

PAUCITY OF MUSLIMS IN THE IMPERIAL SECRETARIAT AND IN THE SUPERIOR SERVICES OF RAILWAYS, TELEGRAPHS, ETC.

155. Mr. M. Maswood Ahmad : (a) Has the attention of Government been drawn to pages 2 and 3 of the *Eastern Times*, Lahore, dated the 7th August, 1932, with regard to the paucity of Muslims in the Imperial Secretariat, and in the superior services of Railways, Telegraphs, etc. ? Will Government kindly say whether the figures and percentage, given in the above newspaper, of Muslims holding permanent and substantive appointments in the various categories of the Imperial Secretariat service are correct ? If they are not correct, will Government very kindly give correct figures and their percentage in these services ?

(b) Will Government kindly state the number of posts and their nature, carrying special pay together with the names and community to which their holders belong in the Departments of Industries and Labour, Foreign and Political, Finance, Legislative, Education, Health and Lands, Commerce, Army, Home, Military Finance and Railway Board? While giving the names of holders of these posts, will Government also state whether there is any Muslim senior to the man in receipt of special pay in that category on the office gradation list? If so, will Government kindly give reasons, apart from the post being selection appointment, for the unfitness of that Muslim to hold that post?

(c) Is it a fact that almost all the posts carrying special pay are the *sole monopoly* of non-Muslims in the Imperial Secretariat?

The Honourable Mr. H. G. Haig : (a) I have seen the letter, but I do not consider it necessary to check the percentage given therein. I would add that statements showing the communal composition of the Government of India offices are placed annually in the Library of the House.

(b) I would refer the Honourable Member to the statement laid on the table of this House on the 14th instant in reply to part (b) of starred question No. 1107 asked by Mr. Uppi Saheb Bahadur on the 1st April, 1932. I regret that I cannot collect information regarding the names of the holders of these posts. I would also refer the Honourable Member to the concluding portion of the reply given in this House on 1st April, 1932, to part (d) of question No. 1107.

(c) No. 13.7 per cent. of posts carrying special pay are held by Muslims.

CLAIMS OF A MUSLIM CLERK FOR THE POST OF CASHIER IN THE OFFICE OF THE DIRECTOR GENERAL, INDIAN MEDICAL SERVICE

156. **Mr. M. Maswood Ahmad :** (a) Has the attention of Government been drawn to page 2 of the *Eastern Times*, Lahore, dated 7th August, 1932, with regard to the claims of a Muslim clerk for the post of Cashier in the office of the Director General, Indian Medical Service? If so, will Government kindly state whether the facts mentioned in that paper are correct and what action do Government propose to take in the matter against the dealing stenographer in the Director General, Indian Medical Service office against this?

(b) Having the above questions in view and in view of the letter printed on page 3 of the *Eastern Times* referred to above, is it a fact that the difficulty of Muslims in the Imperial Secretariat is two-fold, firstly to get their proper representation in the service and secondly to maintain their position in the service? If this is not correct, will Government kindly state what are the reasons, firstly, that they are so inadequately represented in the Imperial Secretariat clerical service and secondly that they are so conspicuous by their absence in higher appointments, e.g., Assistant Secretaries and almost all appointments carrying special pay are the sole monopoly of non-Muslims? Will Government kindly state whether the Muhammadans working in the various Departments are not considered for appointments carrying special pay?

The Honourable Mr. H. G. Haig : (a) I am making enquiries and will lay information on the table in due course.

(b) No, Sir. Direct recruitment to the clerical staff of offices under the Government of India is made in accordance with the orders of 1926 regarding the recruitment of minority communities, a copy of which is in the Library. The percentage of Muslims in the Secretariat proper and attached and subordinate offices at headquarters and elsewhere has increased from 15.2 and 8.5 in 1926 to 18.4 and 14.6, respectively. Promotion is based on merit combined with seniority not on communal considerations. The remaining portion of the question is covered by my reply to parts (b) and (c) of the previous question—No. 155.

INEFFECTIVE STEPS TAKEN TO INCREASE THE NUMBER OF MUSLIMS IN THE IMPERIAL SECRETARIAT SERVICE.

157. Mr. M. Maswood Ahmad : Are Government aware that the steps so far taken by Government to improve the number of Muhammadans in the Imperial Secretariat Service and the recognition of their claims to higher appointments and to posts carrying special pay have proved to be ineffective? Are Government prepared to adopt more effective measures by ear-marking some per cent. of the posts in every category as well as the posts carrying special pay for Muslims? If not, will Government kindly give their reasons for not doing so?

The Honourable Mr. H. G. Haig : No, Sir. I would refer the Honourable Member to my reply to part (b) of his question No. 156

EXTENSIONS GRANTED TO OFFICES IN THE GOVERNMENT OF INDIA DEPARTMENTS.

158. Mr. M. Maswood Ahmad : Will Government kindly give the names of officers, categories to which they belong and the pay which they are drawing at present, in each Department of the Government of India, who have completed thirty years' service or have attained the age of fifty-five years and have been granted extension of service? Will Government kindly state the minimum pay of that category which would be granted to a new entrant in place of these men if they had not been granted extension and the consequential saving to Government in these days of financial stringency? Will Government kindly also state against the name of each officer who has been granted extension the reasons for giving him extension and whether the extension granted to him was in public interests in that he could not be replaced by a suitable successor, or the extension granted was in the interests of the individual concerned?

The Honourable Mr. H. G. Haig : I am making enquiries and hope to be able to lay some general information on the table in due course. I do not propose to enter into the cases of individual officers.

PAUCITY OF MUSLIMS IN THE IMPERIAL SECRETARIAT.

159. Mr. M. Maswood Ahmad : Has the attention of the Public Service Commission and the Government of India in the Home Department been drawn to pages 2 and 3 of the *Eastern Times*, dated the 10th September, 1932, regarding the paucity of Muslims in the Imperial Secretariat?

Will Government kindly make a statement on the allegations made in the above paper by a correspondent and the measures which Government propose to adopt to remove the oft-repeated complaint of the Muslims ?

The Honourable Mr. H. G. Haig : I have seen the letter in question. I would refer the Honourable Member to the replies I have given to his questions Nos. 155, 156 and 157, which explain the position in regard to the employment of Muslims in the Secretariat.

EMPLOYMENT OF A MUSLIM ASSISTANT IN THE OFFICE OF THE PUBLIC SERVICE COMMISSION.

160. Mr. M. Maswood Ahmad : Is it a fact that there was only one Muslim Assistant in the office of the Public Service Commission who has been sent away from that office ? Will Government state reasons for this ?

The Honourable Mr. H. G. Haig : In consequence of the reduction of a post of stenographer in the office of the Public Service Commission a permanent Hindu stenographer, who was to have been retrenched and who is qualified for an Assistant's post, was absorbed in the post of an Assistant, which was held temporarily by a Muslim. The latter was reverted to the office in which he held a permanent post of Assistant on the same pay. The object of appointing the Hindu stenographer to the post of Assistant was to save the payment to him of the compensation admissible under the retrenchment terms.

REVERSION OF THE MUSLIM ASSISTANT SECRETARY OF THE FINANCE DEPARTMENT.

161. Mr. M. Maswood Ahmad : Is it a fact that the only Muslim Assistant Secretary in the whole of the Imperial Secretariat has been reverted in the Finance Department ? If so, will Government kindly give reasons for this ?

The Honourable Sir Alan Parsons : A Muslim Superintendent who was officiating as Assistant Secretary in the Finance Department was reverted from that post last May on the abolition of the post. At the time he was the only Muslim Assistant Secretary. The reversion had nothing to do with the appointment of one of the Superintendents to be in charge of the general office arrangements.

EMPLOYMENT OF MUSLIM ASSISTANTS IN THE REFORMS OFFICE.

162. Shaikh Fazal Haq Piracha : (a) Will Government be pleased to state what is the total strength of the office of the Reforms Commissioner with the Government of India ?

(b) What is the number of Assistants and how many of them are Muslims ?

(c) Is it a fact that no Muslim has worked continuously in that office as an Assistant since its creation ?

(d) Is it a fact that the only Muslim Assistant working in that office was sent out on deputation to the Consultative Committee and his post has been filled up by a non-Muslim ? If so, why ?

The Honourable Mr. H. G. Haig : With reference to questions Nos. 162 and 163, I would refer the Honourable Member to the replies given on 27th September, 1932, to Kunwar Hajee Ismail Ali Khan's unstarred questions Nos. 101 and 102.

SELECTION OF STAFF FOR COMMISSIONS AND COMMITTEES FROM THE REFORMS OFFICE.

†163. **Shaikh Fazal Haq Piracha :** Is it a fact that when personnel is selected for commissions or committees appointed by Government under the Reforms the staff working in the Reforms Office is invariably deputed for such work and men working in the Secretariat are rejected ? If so, why ?

MADRASIS EMPLOYED IN THE REFORMS OFFICE.

164. **Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state the number of Madras officers and others employed in the Reforms Office ?

(b) Is it a fact that the Assistant Secretary, and the Superintendent of the Reforms Office are near relatives ?

The Honourable Mr. H. G. Haig : (a) Including the Assistant Secretary there are three Madrasis and 12 others.

(b) No. They are remotely connected by marriage.

EMPLOYMENT OF UNQUALIFIED MEN IN THE REFORMS OFFICE.

165. **Shaikh Fazal Haq Piracha :** (a) Will Government be pleased to state whether it is a fact that unqualified men are employed in the Reforms Office ?

(b) Are Government aware that a number of qualified men are without appointments ?

(c) Under what circumstances does the Public Service Commission permit the employment of unqualified men in the Reforms Office ?

The Honourable Mr. H. G. Haig : (a) The answer is in the affirmative.

(b) and (c). The Reforms Office is a temporary office and unpassed men were appointed when passed candidates were not available.

GRADES OF STATION MASTERS ON THE NORTH WESTERN RAILWAY.

166. **Raja Bahadur G. Krishnamachariar :** (a) Is it a fact that there are eight grades of Station Masters on the cadre of the North Western Railway ?

(b) If so, when did this come into force ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

†For answer to this question, see answer to question No. 162.

PROMOTION TO HIGHER GRADES OF INDIAN GUARDS AND STATION MASTERS ON THE NORTH WESTERN RAILWAY.

167. **Raja Bahadur G. Krishnamachariar :** (a) How many Indian Station Masters and how many Guards, respectively, in the North Western Railway, have been promoted to the fourth and up to the eighth grades since the introduction of the grade-system ?

(b) Will Government be pleased to state how many vacancies there are at present in each of the said grades of Station Masters ?

(c) Will Government be pleased to state how many Indian Station Masters of the lower grades and how many Guards are officiating at present in the fourth to the eighth grades ?

(d) Is it a fact that Indian Station Masters with long service and greater practical experience are not generally appointed to the higher grades of Station Masters, while Guards and others with less service and little or no experience of the practical work of a station are appointed to the said posts ? If so, why ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

PROMOTION OF STATION MASTERS AND GUARDS TO CERTAIN SUPERIOR TRAFFIC POSTS ON THE NORTH WESTERN RAILWAY.

168. **Raja Bahadur G. Krishnamachariar :** (a) Will Government be pleased to state how many vacancies there are at present of Traffic Inspectors, Chief Controllers, Deputy Controllers and Assistant Controllers in the North Western Railway ?

(b) How many of such vacancies have been filled up, if at all, from Indian Station Masters of the lower grade and how many from Guards ?

(c) Will Government be pleased to state how many Indians, Anglo-Indians and Europeans are working permanently at present in the posts mentioned in part (a) ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

PURCHASE OF BUNGALOWS IN KOHAT CANTONMENT.

169. **Khan Bahadur Haji Wajihuddin :** (a) Is it a fact that Government intends to purchase some bungalows in Kohat Cantonment ?

(b) Is it a fact that out of the bungalows selected for purchase, two are occupied by the owners ?

(c) Is it a fact that the owners of the bungalows offered to build new bungalows, for military officers, if Government needed them and requested that their personal residence in the bungalows be not disturbed ?

(d) How have Government disposed of this request ?

(e) Under what legal authority do Government intend to purchase the bungalows, and what procedure will be adopted for the purpose ?

(f) Are Government aware that under the House Accommodation Act a bungalow occupied by an owner cannot be appropriated ?

(g) Will Government please state the necessity of Government disturbing the house-owners in their residence ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) Government understand that three of these bungalows are occupied by their owners.

(c) Government have not received any such offer.

(d) Does not arise.

(e) Under the conditions on which the sites are held, or under the Land Acquisition Act.

(f) Yes, but the bungalows are not being appropriated under the Cantonments (House Accommodation) Act.

(g) The sites are being resumed in order to alleviate the acute shortage of accommodation for military officers in Kohat Cantonment.

CONSTITUTION OF ELECTED BOARDS IN THE CANTONMENTS OF NORTH-WEST FRONTIER PROVINCE.

170. **Khan Bahadur Haji Wajihuddin :** (a) Will Government state if any steps have been taken to constitute elected boards in the cantonments of North-West Frontier Province ?

(b) When do Government intend to create such boards in those cantonments ?

(c) Will Government state the reasons for depriving the people of the cantonments of the North-West Frontier Province so far of the right of election ? Are Government aware that this right has been conceded in a fully developed form to the other people of the province ?

(d) Are Government aware that there is acute discontent in these cantonments owing to the delay in their having elected boards ?

(e) Did Government receive telegraphic or other representations from the cantonments in this matter ? If so, how did Government dispose of them ?

Mr. G. R. F. Tottenham : The matter is receiving the attention of the Government of India and the Local Government.

GRIEVANCES OF SHOPKEEPERS IN THE ALLAHABAD CANTONMENT.

171. **Khan Bahadur Haji Wajihuddin :** (a) Has the attention of Government been drawn to an article headed "Allahabad Shopkeepers Grievances", published in the *Cantonment Advocate* for July, 1932 ?

(b) Have Government made any enquiry about the same ? If not, do they propose to do so ?

(c) Are Government aware that the Allahabad grievances have multiplied for some months now ? Do Government propose to find out the real causes thereof and remove them ?

Mr. G. R. F. Tottenham : (a) Government have seen the article. The attention of the Honourable Member is invited to the answer given by me to unstarred question No. 110 on the 27th September, 1932.

(b) No.

(c) The reply to the first part is in the negative. The second part does not arise.

ELECTRIC SUPPLY IN CERTAIN BAZAR AREAS IN MEERUT CANTONMENT.

172. **Khan Bahadur Haji Wajihuddin :** Are Government aware that Bazar areas of Sudder and Lal Kurti in Meerut Cantonment are in urgent need of electric supply and if so to what extent has the progress been made towards the proposed scheme and how long will it take to provide the civil population of the said Cantonment with the supply ?

Mr. G. R. F. Tottenham : I understand that there is a considerable demand from the inhabitants of these areas for a supply of electricity.

The two areas mentioned by the Honourable Member are included in that portion of the Meerut Cantonment in which the development and extension of the electrical supply will shortly be undertaken by a private company. Negotiations are at present proceeding between the military authorities and the Company, who have applied to the Local Government for the inclusion of these areas within their licensed area of supply. I am afraid that I cannot say when a supply of electricity will be available in the areas mentioned, but I can assure the Honourable Member that the military authorities are anxious to complete the negotiations to which I have referred.

SPECIAL REPRESENTATION FOR CANTONMENT PEOPLE IN THE FUTURE CONSTITUTION OF INDIA.

173. **Khan Bahadur Haji Wajihuddin :** Are Government aware that the people of cantonments in India are anxious that in the future constitution of India, any representation in the Federal Assembly that may be adjudged to be the right of the people of cantonments by virtue of their population and their vested interests in cantonments be given to them either by creating them into separate cantonment constituencies for 'Muslims' and 'Non-Muslims' respectively or through nomination by Government with suitable gentlemen who may be houseowners, traders and actually residing in cantonments and may be selected from various communities in India, representing all shades of opinion ?

The Honourable Sir Brojendra Mitter : The delimitation of constituencies has not yet been taken up. The Honourable Member's remarks on the wishes of cantonment residents have been noted.

SPECIAL REPRESENTATION FOR CANTONMENT PEOPLE IN THE FUTURE CONSTITUTION OF INDIA.

174. **Khan Bahadur Haji Wajihuddin :** Are the Government of India aware that the majority of people in the cantonments of India, owing

to small groups of cantonments being included in various urban constituencies of both Muslims and Non-Muslims electoral rolls for the Central Legislature in which the cantonment group forms a negligible element, the cantonment people generally are not in a position to influence the course of election in most of such urban constituencies ? Will Government please state whether they are prepared to convey the demands of the cantonment people to His Majesty's Government for due consideration ?

The Honourable Sir Brojendra Mitter : The suggestions of the Honourable Member have been noted.

NON-REPRESENTATION OF CANTONMENT PEOPLE AT THE ROUND TABLE CONFERENCE.

175. Khan Bahadur Haji Wajihuddin : Are Government aware that the peoples of cantonments were deprived of the privilege to have their case represented through one of their own representatives in both the first and second Round Table Conferences and if so, are Government prepared to consider the advisability of making recommendation to nominate some one for the forthcoming conference ? If not, why not ?

The Honourable Sir Brojendra Mitter : The Honourable Member is referred to the reply given by Sir George Rainy to Mr. Bhuput Sing's unstarred question No. 18 on the 26th January, 1931.

ALLEGED FRAUDS IN THE EAST INDIAN RAILWAY HIGH SCHOOL, TUNDLA.

176. Khan Bahadur Haji Wajihuddin : (a) Is it a fact that there have been serious frauds in the East Indian Railway High School, Tundla, and that the Divisional Accounts Officer, East Indian Railway, Allahabad, was deputed to audit the school accounts in October, 1931, on this account ? If so, will Government be pleased to lay on the table a copy of the report submitted by the Divisional Accounts Officer ?

(b) Is it a fact that the Head Master of the school was suspended ? If so, why and by whom ?

(c) Is it a fact that the articles noted below were purchased by the Head Master out of the school money and were used in connection with the radio receiver installed by him in his private house ?

Radio Physics Course, Soldering Iron Type, Water Meter, Ebonite Sheet, Accumulators (big size), and Accumulators (medium size).

(d) Will Government be pleased to state whether any preliminary enquiry was made into the conduct of the Head Master ? If so, with what result ?

(e) Is it a fact that during the course of the enquiry the Head Master got himself admitted into the Mental Hospital at Agra and remained there for about a month ?

Mr. P. R. Rau : I have called for information and will lay a reply on the table in due course.

RAILWAY PASSES SANCTIONED FOR THE USE OF THE EAST INDIAN RAILWAY HIGH SCHOOL, TUNDLA.

177. **Khan Bahadur Haji Wajihuddin** : Is it a fact that the East Indian Railway Administration has sanctioned two passes for the official use of the East Indian Railway High School, Tundla ? If so, will Government please state :

- (i) who is the custodian of these passes,
- (ii) whether the head master of the school has been authorised to use these for his private use also,
- (iii) whether the Head Master has ever misused these passes especially in the year 1931, and
- (iv) whether any check is exercised by the Railway Administration on these passes ?

Mr. P. R. Rau : I have called for the information required and will lay it on the table of the House in due course

SALE OF BONUS BONDS BY THE INDUSTRIAL BANK OF INDIA, LIMITED, AMBALA CANTONMENT.

178. **Maulvi Muhammad Shafee Daoodi** : (a) Are Government aware that the Industrial Bank of India, Limited, Ambala Cantonment, are selling bonus bonds of rupees twelve each to the public in lieu of which they promise to a limited number of its purchasers bonus varying in value between Rs. 5,000 to Rs. 150 of which advertisements have appeared on a very wide scale ?

(b) If so, have Government considered the legality of such dealings ?

The Honourable Mr. H. G. Haig : (a) Yes.

(b) I have ascertained that the Punjab Government have ordered the prosecution of the Managing Director of the Bank and of those newspapers which published certain advertisements of the Bank after having been warned not to do so.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir Alan Parsons (Finance Member) : Sir, I lay on the table the information promised in reply to starred question No. 46, asked by Mr. A. Das on the 6th September, 1932.

RECOMMENDATIONS OF THE CENTRAL BANKING ENQUIRY COMMITTEE.

Statement showing the action on the Recommendations of the Indian Central Banking Enquiry Committee.

(*Vide* items in para. 782 of the Report.)

(A) Recommendations on which no action by Government is called for.
10, 39, 82, 89, 99, 109, 110, 112—116, 130—134, 137—139, 143, 147—149, 151, 152, 159, 161, 163, 165, 175, 176, 184, 185, 189, 201, 205, 206.

(B) Recommendations which are dependent on the creation of a Reserve Bank and which it would be premature to consider until a Reserve Bank is established.

13—18, 46, 135, 136, 140—142, 144—146, 158, 166—174, 190—199.

- (C) Recommendations on matters on which under the existing constitution the responsibility and therefore, the final decision must rest with Provincial Governments.

1—3, 4—9, 11, 12, 19—38, 42—45, 49—67, 68—81, 83—88, 90, 91, 95—98, 100, 101—106, 107, 108, 117—129, 162, 164, 200, 203, 207—209.

- (D) Recommendations on matters on which the final decision rests with the Government of India.

Recommendations (*vide* paragraph 782 of the Report).

Action taken.

(40) Free remittances of funds for co-operative purposes is of the utmost importance to the co-operative movement and no attempts should be made to curtail those privileges under the rules of the Government of India in this matter. (Paragraph 182.)

(40) In practice at present remittance for proper co-operative purposes is freely granted.

(41) As regards remittance facilities for other than co-operative purposes co-operative banks should be entitled to the same privileges as joint-stock banks. (Paragraph 182.)

(41) This is actually being done.

(47) Profits of co-operative societies should be exempt both from income-tax and super-tax. (Paragraph 195)

(47) & (48) Local Governments have been addressed for an expression of their views on the desirability of granting the concessions proposed and their effects if and when granted.

(48) The exemption of co-operative societies from payment of income-tax and super-tax on earnings from investments in public securities or land mortgage debentures to the extent such investments are necessary for the purpose of their fluid resources and for the investment of reserve funds as prescribed by the rules is recommended. (Paragraph 196.)

(92) A detailed investigation of the problem of starting railway warehouses in the chief centres of trade should be undertaken by the Railway Board and the railways should be asked to start experiments at selected centres. (Paragraph 282.)

(92) & (93) The recommendations are under the consideration of Government (Railway Department).

(93) With a view to encouraging private enterprise to provide and work warehouses in the vicinity of railway stations certain modifications in the terms of the lease suggested by the Railway Board are recommended. (Paragraph 282.)

(94) The placing of railway receipts by the legislature on the same footing as bills of lading is recommended. It is further recommended that railway receipts should be made negotiable and that the railway authorities should issue instructions that the receipt should give as full a description as possible of the goods covered by it. (Paragraph 283.)

(94) The matter is under the consideration of the Government of India (Railway Department) and the views of local Governments and Chambers of Commerce have been invited on certain points.

Recommendations (*vide* paragraph 782 of the Report).

Action taken.

(111) Any technical difficulties in the way of Government communicating acceptances of tenders to contractors and to their financing banks or bankers and payment of all monies due to the contractors through these banks and bankers should be removed. (Paragraph 322.)

(111) The recommendation has been accepted and instructions have been issued to the Auditor General on the subject with a view to the Public Works Account Code and other Codes being amended accordingly. Departments of the Government of India and Provincial and local Governments have also been circularised.

(150) No obstacles should be put in the way of mergers among smaller joint-stock banks by stamp duties or taxation, and any existing obstacles in this direction should be removed. (Paragraph 549.)

(150) Government consider that there is no justification for exempting mergers of joint-stock banks from super-tax.

(153) Steps should be taken, as early as possible, to remove the impediments which now stand in the way of immoveable property belonging to a Hindu or Muhammadan family being accepted by banks as a normal security. It is left to the Government concerned and the legislatures to weigh the various considerations involved and determine what action should be taken in the matter. (Paragraph 562.)

(153) It is the general policy of Government not to effect changes in Hindu or Muhammadan law unless there is a general demand for it. In the absence of any such demand Government consider it unwise to act on the suggestion.

(154) The provisions of section 58 (f) of the Transfer of Property Act should be extended to other important centres of trade and commerce (both internal and port towns) throughout India. (Paragraph 563.)

(154) Local Governments are being consulted in the matter.

(155) The Negotiable Instruments Act should be amended so as to provide that cheques originally drawn to bearer, would despite any endorsement, retain their character as bearer instruments. The recommendation that any holder of a cheque should have the right to alter the character of the cheque from "bearer" to "order" on the face of it and that the alteration should be supported by the name of the drawer or holding endorser who makes the alteration is approved. *Hundis* which are drawn in the form of cheques should be treated similarly. (Paragraph 564.)

(155) & (156) Under the consideration of Government.

(156) The legal position as regards trust receipts should be investigated by the legal advisers of Government and such action taken as may be considered necessary. (Paragraph 565.)

(157) The cost of internal remittance in India should be reduced as far as possible. (Paragraph 566.)

(157) Government consider that the remittance facilities which the Imperial Bank and the Government between them offer to the public and other banks are extraordinarily cheap. The matter has been examined from time to time and it was decided that nothing can be done until the question has been examined by the Reserve Bank when it is established.

AGREEMENT MADE BY THE MANAGERS OF JUMA MASJID, DELHI.

Translation of the agreement, dated the 24th November, 1862, made by the Managers of the Jama Masjid, Delhi.

We, the undersigned, ten Members, appointed by agreement among ourselves as Managers of the Jama Masjid, thankfully enter into the following agreement of our own free will with Government :

1. We are responsible that there shall be no disturbances, disagreements or quarrels within the Mosque premises.
2. If any question should arise in connection with the Mosque or religion we will settle it privately between ourselves.
3. No act shall be committed inside the Mosque which may tend to show contempt of, or disloyalty to, Government. Should however, any such thing take place and which may be beyond our power to check or control, we shall bring it to the notice of the Deputy Commissioner.
4. We will do repairs to the buildings of the Mosque, whenever it is necessary to do so, and shall keep up regular accounts of shop rents, Tah bazari, etc., of the endowed property.
5. If a vacancy is caused among the Managers for any reason, whatever, we will appoint a successor by agreement among ourselves.
6. If anything is done or act committed contrary to the wishes of the Government, we hereby recognise that Government shall be at liberty, at all times, to close the Mosque or make other arrangements for its management.

(Sd.) Mirza Ilahi Bax.

(Sd.) Md. Sadruddin Khan.

(Sd.) Md. Ibrahim.

(Sd.) Md. Hussain.

(Sd.) Nasir Uddin.

(Sd.) Turab Ali.

(Sd.) Hafeiz Daood.

(Sd.) Md. Tafazzul Hussain Khan.

(Sd.) Mahboob Bax.

(Sd.) Hafiz Mir Mohammed.

Written on 24th November, 1862.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Mr. H. G. Haig (Home Member) : Sir, in connection with the Select Committee the names of which are contained in the motion that is now being discussed, I wish to inform the House that the Honourable the Law Member, having become now a Member of this House, automatically becomes a Member and Chairman of the Select Committee. That being so, I propose, on behalf of Government, to withdraw the name of Mr. Gwynne.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : Before I call upon Mr. Munshi to resume his speech, the Chair wishes to draw the attention of Honourable Members to the fact that this is the fifth day that the House has been discussing this Bill. There are still many Honourable Members anxious to address the House, and the Chair wishes to give opportunity to as many Honourable Members as can possibly be managed within the time available. The Chair, therefore, wishes to urge upon those Honourable Members who may be called to address the

House to-day to bear in mind that the length of their speeches has the effect of depriving other Honourable Members from getting their chance. The Chair, therefore, appeals to all Honourable Members who may catch the eye of the Chair to be as brief as possible.

Mr. Jehangir K. Munshi (Burma : Non-European) : Mr. President, clause 1 of this Bill provides that "this Act may be called the Criminal Law Amendment Act, 1932". I think it would be more convenient and more appropriate to refer to this Act as the Haig Penal Code. (Laughter and Cheers from the Opposition Benches.) This is of course on the assumption that the Honourable the Home Member is either the willing author or the willing godfather of this piece of legislation.

I would like to draw attention to clause 20 of this Bill to make another general point. In clause 20, sub-clause (d), appear the following words :

"To bring into hatred or contempt the administration of justice in British India."

It seems to me that the very first person who should be prosecuted under clause 20, sub-clause (d) of this Bill is the Honourable the Home Member himself. (Laughter and Cheers from the Opposition Benches.) Because, by forcing this law down the throat of an unwilling and resentful India, he will most certainly bring the administration of British justice in this country into very great contempt, perhaps, for the first time in the history of British India. But, who is going to direct his prosecution ? (Laughter.) The new Indian Government, for whose benefit this Act is being permanently put on the Statute-book ? My Honourable friend, Mr. James, drew a subtle distinction between "civil disobedience" and "passive resistance"; and, with legitimate pride, he referred to the case of his father who was a "passive resister", and that passive resistance has been approved by his worthy son in this House.....

Mr. F. E. James (Madras : European) : No. I disapproved of it. (Laughter.)

Mr. Jehangir K. Munshi : If Mr. James disapproves of his father's passive resistance, I really fail to understand the necessity of referring to it ; I should have thought that his one object in referring to it was to approve of his father's passive resistance, to distinguish it from civil disobedience and to condemn civil disobedience.

Last evening, in discussing the adjournment motion on the latest tragic event in this country, the attack on Sir Alfred Watson, the editor of the *Statesman*, my Honourable friends, Mr. Morgan and Mr. James, were deeply moved. That is only natural. I can share their feelings perhaps more intimately than any other section of this House, because similar acts of terrorism and violence have been committed against Indians in the province in which I reside. We, Indians, also were deeply moved by those occurrences. Of course there is this difference between Indians in Burma and Europeans in Bengal, that, whereas in Bengal the European community has the protection of the Government of Bengal, I regret to have to say that we Indians in Burma did not have that protection from the Government of Sir Charles Innes, and, as a result, a special Indian deputation had to be sent to interview His Excellency the Viceroy and the Members of His Executive

[Mr. Jehangir K. Munshi.]

Council. But because a certain very small section of Burmans indulged in acts of terrorism and violence, we, Indians in Burma did not allow such acts to create the slightest feeling of illwill or lack of friendship towards the entire Burman race. (Applause.) We cannot possibly hold responsible a whole race or community for the sins of a few criminals. (Hear, hear.)

I entirely agree with my Honourable friends on the European Benches that the British and Indian elements should combine, effectively combine, to eradicate this curse of terrorism and anarchy from this country. (Applause from the European Benches.) But, in this country, there are at the present moment two sets of terrorists, the Bengal terrorists and the British terrorists. ("Hear, hear" from the Opposition Benches.) We offer, we willingly offer, to our European friends in this country, our help to root out the Bengal terrorists. Will not the European Members in this House also help us to suppress the British terrorists in this country? (Cheers from the Opposition Benches.) My Honourable friend, Mr. George Morgan, was so moved yesterday that he unconsciously picked up this Bill and said: "the attempt on the life of Sir Alfred Watson was made, because he had the courage of his convictions to express his views in the *Statesman* in the pursuit of his ideals", and he added "that was greater terrorism than this Bill". I entirely agree with him, because that terrorism which attempts to prevent Sir Alfred Watson from publishing his views in pursuance of his political ideals is a greater terrorism than this Bill. But is this Bill also not sufficient terrorism, when it prevents hundreds of Indian journalists from publishing their opinions in the pursuit of their political ideals? (Cheers from the Opposition Benches.) If we willingly give our support to the European community in this country to root out terrorism which interferes with the free expression of European public opinion, however unacceptable that opinion may be to Indians, have we not an equal right to demand support from the European Group in this House, when we want Indian editors of journals to express their opinions with equal freedom? (Hear, hear.) Now, Sir, what will be the effect, if this Bill becomes law? Will it help any section of the general community in India to suppress or uproot terrorism? I do make an appeal to my European friends in this House. There is only one way of rooting out not only terrorism, but all anti-European feeling in this country, and that is by extending to us the hand of fellowship and friendship. We do not know how far the Government of India are the willing authors or the willing agents of this particular piece of legislation, or to what extent they are carrying out the dictates of Sir Samuel Hoare and his supporters in Parliament at the present moment. I think we should take the more charitable view, unless the Honourable the Home Member directly contradicts us, that the Government of India have brought this Bill, this infamous Bill, before this House with the greatest reluctance and under compulsion, in the discharge of their duties dictated to them by the Headquarters at Whitehall; but that does not impose any duty on the non-official European Benches to blindly support this Bill. My European friends' presence in the Legislature will not come to an end within a couple of years. They will be in the future Legislatures also, and they will have to sit not with most of the Members who are present here today, but they will have to sit in the future Legislature with a hundred

and odd Congressmen who are at present languishing in the Indian prisons. It is with them that they will have to collaborate in the future in the interest and for the good of their own community, it is to them that they will have to look for protection and friendship. (Hear, hear.) What gesture are they prepared to make to-day to India so far as this Bill is concerned ? This is the very worst and blackest piece of legislation that the British race has ever attempted to force on India. (Applause from the Opposition Benches.) It is the attitude of the European community on this Bill that will greatly determine the future attitude of Indians towards the European community in India. At the present moment, we, the elected Indian Members in this House, and also the entire Indian race, are at the mercy of the European non-official votes in this House, when official votes, as I have already said, must be cast in one direction, probably under orders from Whitehall ; but there is no such compulsion on non-official European Benches.

I can more readily appreciate the fears and misgivings of the European community in this country, because the Indian community is more or less in the same position in Burma. But the policy which I have advocated in Burma to my own countrymen is this, that we can at no stage afford to allow our fundamental rights to be trampled upon either by Europeans or Burmans, but short of that, it should be our constant endeavour to help the people of Burma in the realisation of all their ideals including their political ideal. (Applause.) It has been and will continue to be my constant endeavour to promote friendship and goodwill between Indians and Burmans. May I not ask Honourable Members sitting on the European Benches to take up the same position in India ? They are in a minority ; they will always be in a minority, but the handicap attendant on a minority will disappear if they can live in India with the goodwill of the Indian people. And my warning to the entire European community in India is that if this Bill becomes law by reason of non-official European support, and unless their votes are cast in support of this Bill, this Bill can never become law, that will be an act of hostility towards the entire Indian race, which, I am afraid, India may not easily forget. Let the European community take a long and wise view. I appeal to my European friends in this House to help India by rejecting this infamous Bill. (Applause.)

Mr. N. M. Joshi (Nominated Non-Official) : Sir, the discussion has reached such a stage that I feel I need not make a long speech, but I was anxious that I should not give a silent vote on this important measure. This Bill is described by some speakers as an emergency measure, but if we read it through carefully, I do not think we shall be justified in supposing that this Bill is an emergency measure. The Honourable the Leader of the House and also the Honourable the Home Member yesterday said that if they were convinced in the Select Committee, they might limit the operation of the Bill to some definite period. It is clear, they are not so far convinced, and, therefore, we are not justified at this stage in supposing that the Bill is an emergency measure. If the Bill is to be an emergency measure, in my humble view, it should not last for a longer period than a Session of the Assembly, so that the Assembly will have an opportunity every Session to review the whole situation and see whether special legislation is necessary or not. I also hold that it is not quite honest on the part of the Government to suggest that this Bill is introduced as a result of the Resolution passed by the Legislature last

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Session. If they had to bring forward legislation in response to the Resolution, they could have done so in the last Session, but they did not do it. On the other hand, they issued an Ordinance again after the lapse of the first. I feel that the origin of this Bill lies in the fact that Government and the officers of Government have tasted blood. They have enjoyed the powers under the Ordinances, and naturally now they do not like to give them up. That, Sir, is the origin of this Bill, and we need not be surprised at this. This happens in every walk of life. We know what happens in the industrial field. If you give protection to an industry, does it ever happen that industry will give up that protection willingly? The same is the case with politics. The Government have enjoyed these powers and they are reluctant to give them up. The Honourable the Home Member said that his object in bringing forward this measure was to prevent a recrudescence of communism, terrorism and the civil disobedience movement. Mr. President, I assure you that I am not a communist, although I sympathise with some of the doctrines of people who are called communists. I do not believe in terrorism. I was a Congressman ten years ago, but I am not now a Congressman. But I feel that this Bill, even from the point of view of a man who is neither a communist, nor a terrorist, nor a Congressman, is dangerous to liberty. This Bill cuts at the root of individual liberty and freedom. My Honourable friend, Mr. James, yesterday said that he would rather be an enemy of liberty and freedom than allow people to abuse them. Mr. President, it is very easy for my Honourable friend, who belongs to a privileged class, to say that there need not be any freedom if that freedom is likely to be abused. But, unfortunately, we do not belong to a privileged class. We are ordinary citizens of this country, and if we disobey the law, we are bound to be punished. I, therefore, feel that from the point of view of an ordinary citizen, this Bill cuts at the root of his freedom and liberty.

I would now like to examine, from one or two moral aspects, whether the Government are likely to attain their object in introducing this measure. After all, morality has a place in politics. Sir, the principle, from which I look at this Bill and consider whether Government will succeed in their object or not, is this. Generally it is an accepted principle in law that if you want justice, you must seek justice with clean hands. If you want to get rid of communism, terrorism and the civil disobedience movement, Government must show by their action that they do not follow any of the principles of these movements. I take one principle of communism and that is dictatorship. Are Government free from dictatorship? I take terrorism. The chief principle of terrorism is the use of force to achieve its object. Are Government free from the use of force in achieving their objects? What is civil disobedience? Those that adopt civil disobedience place themselves above the law. Are Government free from this attitude? On the other hand, by introducing this Bill they themselves show that they want to place themselves above the ordinary law of the civilised world. Mr. President, if this is the attitude of Government, I do not know how they can expect to succeed in their object.

I do not wish to go into the details of this Bill, but let me mention one or two points. There are in this world many people who do not like war ;

they abhor war, and, therefore, they consider that the profession of a soldier is not a right profession for people to follow. I am one of those people who accept this principle as regards war. I am a pacifist. As a pacifist, if I advise people that they should not take up the profession of war, the profession of a soldier, but take up some other profession, I shall come under the clutches of this law. 'This clearly shows that it is not the Government that wants non-violence. It shows that it is Government that insist, " You must not preach against the use of force. You must not preach against the profession of a soldier " '.

Mr. President, in my childhood I used to have a terror of Government officers. I will explain to you what that terror was. I was not a rich man and I am not a rich man now. We used to own a bullock cart, and whenever we went in our bullock cart and a policeman approached us, we felt a terror. We felt that our cart would be impressed for the sake of an officer. Sir, that terror lasted for many years. After some time, on account of the education of the people, on account of people having begun to understand their rights, this terror has been reduced. But what are the Government doing now ? By this Bill they are trying to re-introduce that terror. Not only that. When our carts were impressed many years ago, there was no sanction of law behind that arbitrary act, but now you are passing a law by which you will create terror ; you will thus have the sanction of the law behind that terror. Mr. President, I will give you one more instance, and that is this. It is my legitimate right to say even in public that an officer of Government is incompetent, or high-handed, but if I say that, I shall create hatred against that officer, I shall create contempt for him, and I shall come under the clutches of this law. One more point. I take interest in the labour movement, and, as an advocate of labour, I sometimes make speeches and say that the capitalists in this country do not do their duty properly, that they neglect the interests of labour. If I say this, I shall be creating hatred against a class which comes under one of the clauses of this Bill. Mr. President, these instances are quite enough. These show that Government themselves have not yet given up the principles which underlie movements like communism, terrorism, the civil disobedience. They want their own dictatorship ; they want their officers to be dictators. They want terrorism of their officers to revive and to spread. They want also that there should be no room for free honest propaganda in this country.

Mr. President, I take up another aspect as to how far the Government will succeed in their object and, the point of view, from which I consider this question, is this. Are the methods which the communists, the terrorists, or those people who take to civil disobedience adopt—are these methods such as generally succeed or not ? If communists achieve their object by communism, if terrorists achieve their object by terrorism, or if those who take to civil disobedience achieve their object by that method, they are going to adopt it and the country is going to adopt that method. If, Sir, by the conduct of the Government we find that other methods succeed with Government much better than these methods, then certainly Government have a chance of succeeding in their object.

Sir, I shall not go into old history whether the Britishers have shown that they will give self-government to any nation without the use of force. I will give you one small very recent instance to show what the spirit of Government is. You will remember that Sir Tej Bahadur Sapru had visited

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Simla some time ago. He tried to persuade the Government of India that the Round Table method should not be given up. Sir Tej Bahadur Sapru is not a bad advocate ; he is a good advocate. He tried to persuade the Government of India that it is a wrong thing to give up the Round Table method. Well, Sir, were the Government of India persuaded by his arguments ? They were not.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : They were.

Mr. N. M. Joshi : They were not. A few days after the announcement by the Secretary of State in effect that the Round Table method was given up, Sir Tej Bahadur Sapru resigned his membership of the Consultative Committee. A few other resignations followed. We then heard the pronouncement of His Excellency the Governor General that the Round Table method will now be restored. Now, may I ask, whether the Government of India was persuaded by the method of argument used by Sir Tej Bahadur Sapru or was it persuaded by the resignation of Sir Tej Bahadur Sapru ? (Hear, hear and Applause.) Well, if the Government of India were persuaded by the resignation of Sir Tej Bahadur Sapru, they have made it abundantly clear that it is non-co-operation that succeeds and not co-operation. (Hear, hear.)

The Honourable Mr. H. G. Haig : I would point out that there was no change of policy at all and when the Honourable Member talks of giving up the Round Table method, his statement is not really in accordance with the statement of the Secretary of State.

Mr. N. M. Joshi : I am entitled to interpret events in my own way ; the Secretary of State's announcement did amount to scrapping the Round Table Conference. And I hold that it is non-co-operation of Sir Tej Bahadur Sapru that succeeded and not co-operation. (*Mr. Gaya Prasad Singh* : " You are right.") Argument did not persuade the Government of India.

Sir Muhammad Yakub : Why are you arguing now, if arguments do not persuade ?

Mr. N. M. Joshi : I will tell you the reason. I am a born co-operator. I do not resort to non-co-operation unless it is absolutely necessary, and I still believe in co-operation.

Then, Sir, there is one more point about which I should like to say only a few words. It is this. I do not agree with Mahatma Gandhi in many respects. But I agree with him in one statement which he has recently made, namely, that the extraordinary powers which Government are giving to their officers brutalise the officers. These powers demoralise their officers. I will give you one instance. I have a colleague in the Servants of India Society who works in a district of Gujerat. His name is Amritlal Thakkar. After the civil disobedience movement was started and several Congressmen were sent to jail, Mr. Thakkar was given a small sum by a gentleman in order that the wives and children of Congressmen who had gone to jail should not die of starvation. Only a few days ago, one of the District Magistrates in Gujerat called Mr. Thakkar in order to bully him and browbeat him. He asked him whether he was supplying funds to the

wives and children of the people who had gone to jail. Now, Mr. President, I want to ask this question, why should an officer object to any one relieving the distress of the wives and children of Congressmen? I can understand Government putting the Congressmen in jail, but certainly it is not according to the rules of any civilised warfare that a combatant should desire that the wives and children of his opponent should die of starvation. I have absolutely nothing to complain about this officer. If we are placed in his position, we may perhaps do just as badly, but I am certain that the system under which you have placed your officers puts them in a very difficult position. You have given so much power that if a man does anything which the officer does not like, he calls him to his office and asks him not to do it. This is not the only thing. You ask your officers, here I am not talking of the petty officers, but of the higher officers, not only to defeat the Congress, but to crush and uproot the Congress. A district officer is asked to see that there should be nothing left of the Congress in his district. He has done his very best to defeat the Congress, but, Sir, he is expected to crush the Congress, and crushing the Congress is not a very easy thing. He, therefore, frets and fumes and resorts to methods which ordinarily he would not use. This is how the officers of Government are being demoralised. There is only one more point and I shall finish. The Honourable the Leader of the House said yesterday that the Congress is not crushed and the Congress must be crushed. I do not approve of this attitude. I hold that, on account of the stern measures which the Government have adopted, the Congress is defeated. But is it right that the Government should be vindictive and try to crush and uproot the Congress? Those countries in Europe which have been vindictive after the war have not done themselves any good. Mr. President, the English people imposed a humiliating treaty upon the Germans. That treaty has not done them any good. Now, let me tell the Government that if they are not satisfied with merely defeating the Congress, but if they desire that the Congress should be uprooted and crushed, it would not do them any good. In the first place, the Congress may not be uprooted, the Congress may not be crushed. Now, let me tell the Government one of my own experiences. There are large masses of people in this country who do not believe in the principles and methods adopted by the Congress, but what is happening? I have seen this in the city of Bombay. I have seen that people who do not even now sympathise with the Congress and do not approve of the Congress methods, still supply funds to the Congress; and why do they do it? I will tell you why. They do it, because they feel that the Congress is being persecuted. Government are not satisfied with defeating the Congress. Government are now trying to humiliate the Congress, to persecute the Congress and to crush and uproot the Congress. It is a very wrong attitude. I should like to make a suggestion before I close and that suggestion is that Government should give up the aim of crushing the Congress and should now adopt an attitude which every generous opponent and generous victor adopts, namely, that Government should try to reconcile Congressmen. Time has come when I believe that a serious effort must be made for a reconciliation with Congressmen and, as a first step towards carrying out that suggestion, Government should give up their intention of passing measures like this. The Ordinances and special powers should be withdrawn. Then I will suggest to Government that they should release all the prisoners. I feel, Mr. President, after having moved in my own city

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and outside, amongst Congressmen and non-Congressmen, that time has come when Congressmen, if they are given an opportunity, will reconsider their position. I have reason to believe that they will. In order to convince the House on this point, I will read only a few lines from a statement made by Mr. C. Rajagopalachariar, one of the lieutenants and a very prominent lieutenant of Mr. Gandhi. Referring to Congress co-operation with Government, he said that :

“ It was all a question of confidence. If Government can somehow create confidence in this direction, prestige will not stand in the way of the Congress entering into negotiations. There are enough big men in India to take the right step.”

I, therefore, believe that the Congress is now in a mood to reconsider its decision. But, Mr. President, Congressmen should be placed in a position in which they can do so, and, in order to do it, I suggest that the Government of India should immediately release all the political prisoners (Hear, hear), because I feel that so long as people are in jail, one cannot expect them to reconsider their position or to admit their mistake. For instance, if I am placed in jail and asked to admit my mistake or to reconsider my attitude, I shall never do it. I, therefore, feel, Sir, that if you do want Congressmen to reconsider their decision and even to admit their mistake, the right course is to release them. Mr. President, I shall not take any more time, but shall urge and urge earnestly upon the Government that they should give up their intention of passing this measure and devote their attention to effecting a reconciliation with Congressmen and others. (Applause.)

Maulvi Muhammad Shafee Daoodi (Tirhut Division : Muhammadan) : Mr. President, it is very unfortunate that we are discussing this Bill at a time when two outrages of a very heinous nature have occurred in India. These, Sir, are very likely to blur the vision of people who are sitting here to consider these momentous issues ; I have tried, however, to see that they do not cloud my vision, and I hope other Honourable Members of this House will also look at this matter quite dispassionately. Very humbly I would ask the Treasury Benches to be more cautious at a critical juncture like this. They ought to see things from a great distance and should have the broadest possible vision on an occasion like this. I admit that objectionable manifestations of the civil disobedience movement must be checked. Society cannot tolerate such objectionable things as have appeared from time to time during the progress of that movement, but, at the same time, I cannot disguise my feeling of disappointment at the conception and attitude of the Honourable the Home Member in bringing forward the Bill in this form. Sir, it appears that the Bill is designed not only to meet the present difficulties which have arisen in the administration of the country on account of the civil disobedience movement, but it is a Bill designed to place a permanent obnoxious law on the Statute-book to meet the distasteful activities of the people in this country whenever they feel that they cannot obey a certain law. Sir, from the very Statement of Objects and Reasons, it appears that the whole idea is to check any such activity in the country in future. If the Bill had been designed only to check the *present* difficulties of Government by means of legislation, that is, to meet an emergency only, I would have come forward to support it, but, as I say, the Bill is designed to check activities of the people of this

country in a general manner. I cannot give my consent to it and I, therefore, cannot support this Bill. Sir, I hold that in a country like this we must have full liberty to act according to our genuine feeling and to express our strong disapproval of a measure enacted by the Government or the Legislature. I believe that civil disobedience, if it is carried out in the true spirit in which it is conceived by its author, is a thing to which no Government should have any objection. If there are objectionable manifestations of it, they can of course arrest the culprits, send them to jail and keep them there so long as the movement is conducted dangerously---as was done during the time of the first non-co-operation movement. But the Legislature cannot allow the Government to assume power to crush the spirit of the people. (Hear, hear.)

I admit, the Government can very well put the question to me as to what they are to do in the present circumstances. My answer, Sir, will be very simple. The Government are not responsible to us, and we are not responsible to the Government. Therefore, it is for them to devise means, and for us to consider whether the means adopted by the Government are justified by the circumstances. Sir, I have no doubt that the Government require some power to meet the present difficulties which have arisen in the administration of the country, but when I look at the origin of the present civil disobedience movement, I have no hesitation in characterising it as a fight for prestige. The Congress had got its own prestige to maintain, and the Government had their own ways and means to deal with the Congress and to bring it to its knees. The Congress devised its means to bring pressure on the Government to yield to its wishes, while the Government are forging their weapons to kill those devices and assuming power to check the movement. I would submit, Sir, that in a case like this the rest of India does not appear in the picture. The two opposing parties are showing their astuteness and ingenuity in the matter for defeating each other. Sir, in my opinion both are wrong at this stage. I beg at this moment to observe that the leader of the Congress movement has now had time to ponder over what he had done in the past,—over his great achievements and his Himalayan blunders. Mahatma Gandhi, Sir, it appears, has now realised to the fullest extent that untouchability amongst human beings is the greatest curse that mankind can imagine, and, therefore, he has resolved to give up his life for it. He would now, Sir, I submit, do well to pursue this ideal and dedicate all his energies to the sacred cause of eradicating the evil as it exists not only between Caste Hindus and the Depressed Classes but between man and man, between one human being and another. Should the Government take this opportunity of releasing him from internment, they would do the greatly needed duty towards Indians to help them in the determination to uproot the very foundation of this great curse. I appeal to Mr. Gandhi, therefore, to devote himself whole-heartedly to this inhuman custom in the civilised world of to-day and I appeal to the Honourable Member in charge to resist the temptation of carrying his motion by the help of the nominated Members of this House. Let the Honourable Member utilise the opportunity now afforded to the Government by the great upheaval in the country in the cause of uprooting the untouchability from the surface of India. I would advise him to wait and see the consequences that will follow this great upheaval. Sir, Government have got more arrows in their bow. The obvious and easy course is to have another Ordinance if need be. At present there seems to be no need for another Ordinance. The other

[Maulvi Muhammad Shafee Daoodi.]

method is by introducing a Bill to check the objectionable features of the civil disobedience movement as the Bengal Council did recently in regard to the terrorist movement, but that would be an emergency measure and the Honourable Members of this Legislature will have an opportunity to judge whether those emergency powers were necessary in the hands of the Government in those circumstances. With these words, Sir, I oppose the motion of the Honourable the Home Member.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, I oppose the motion for reference of the Bill to the Select Committee. As regards the motion for circulation, so far as it means the consultation of public opinion, I shall be always in favour of such a motion, unless it is a dilatory motion. But in this case I anticipate, along with the Honourable the Home Member, that the result will be that Indian public opinion, throughout the country, will be violently opposed to any such legislation while the European opinion, whether it be of officials, merchants or missionary bodies, generally will be in favour of such legislation in India, though they will never favour similar legislation, under any circumstances, for their own country. How far this legislation will affect the civil disobedience movement, I would like very briefly to deal with the first point that the civil disobedience movement shall always be a transitory movement and cannot be a permanent feature in the country. Either the movement will mend the State by securing the purpose for which it is started, or the State will end it. Both the civil disobedience movement and a well-regulated State cannot subsist for a long time. So, I do not see any reason why, for such a fleeting movement, Government should go out of their way to have permanent legislation. But my objection to this legislation is more fundamental. I invite this House to consider patiently whether civil disobedience in all circumstances is illegitimate and unlawful. Is it not possible to conceive of circumstances when civil disobedience or passive resistance is a legitimate weapon? I think it will require no argument from me to convince this House that war, as a method of settling disputes, is considered now barbarous. The International conscience has been shocked enough at the baneful results of the last Great War and it is impossible to perceive of any civilised nation that will not discourage to have recourse to violence and war for the settlement of their disputes. The war is not only undesirable, but fruitful of immense misery to mankind. I would like to develop this point to a certain extent, because it has been doubted even by the Leader of the House. The Honourable the Law Member said that he cannot conceive of the civil disobedience being legitimate under any circumstances. A great lawyer, that he is, he argued that civil disobedience is bad and, consequently, there must be legislation to stop it. As regards the nature of the legislation, he invited us to the Select Committee to settle the details. Arguing in similar way, the revolutionaries also assert that the subjection of a country by an alien race is bad ; so the British must go out of India, bag and baggage. There may be some logic in it, but any politician will perceive that it is not a substantial argument at all. As regards the justification for civil disobedience, I would first of all like to read some passages from some high authorities showing that war or violence has no justification and how people in India, following those high principles, are forced to have recourse to processes like passive resistance or civil disobedience. I will

only give two quotations. One is from the greatest scientist of this age, namely, Albert Einstein. This is what he says :

“ This subject brings me to that vilest offspring of the herd mind—the odious militia. The man who enjoys marching in line and file to the strains of music falls below my contempt ; he received his great brain by mistake—the spinal cord would have been amply sufficient. This heroism at command, this senseless violence, this accursed bombast of patriotism—how intensely I despise them ! War is low and despicable, and I had rather be smitten to shreds than participate in such doings.

Such a stain on humanity should be erased without delay. I think well enough of human nature to believe that it would have been wiped out long ago had not the common sense of nations been systematically corrupted through school and press for business and political reasons.”

I will now read another short passage from Mr. H. G. Wells. This is what he says :

“ If I am opposed to nationalism and war, it is not merely because these things represent an immense waste of energy, but because they sustain a cant of blind discipline and loyalty and a paraphernalia of flags, uniforms, and parades that shelter a host of particularly mischievous, unintelligent bulhes and wasters ; because they place our lives at the mercy of trained blockheads. Militarism and warfare are childish things, if they are not more horrible than anything childish can be. They must become things of the past. They must die. Naturally my idea of politics is an open conspiracy to hurry these tiresome, wasteful, evil things—nationality and war—out of existence ; to end this empire and that empire, and set up the one Empire of Man.”

I say that the ethical principles throughout the world are developing to that level when war will be banned and in that case what should be there to meet the circumstances that are now decided only by wars. What will be the remedy for minorities or oppressed nations who are to fight against organised tyranny or systems which they cannot conscientiously support. If the House should calmly consider the question, they will find that when argumentation, supplication and everything else fails, there is no other course except to resort to civil disobedience. From this I do not argue that there may not be cases where this movement may not go beyond its limitation. One can certainly justify picketing, for example, when it confines itself to reasoning and persuasion, but if any coercion or intimidation is used, the law should step in. I can certainly conceive of circumstances when the State, for its very existence, may be required to enact laws to curtail the civil disobedience movement to a certain extent, but we must also consider that, when we give our assent to such legislation, it should not be such that by its rigour and barbarity it may lead to the undermining of the very foundation of the State. The great danger of civil disobedience movement is that it undermines, to a certain extent, the foundation of the State, which is the rule of the law. The rule of the law must be maintained ultimately, but we must see that the remedy may not be worse than the disease. Here I should like to refer to a passage from the great English Professor, Henry Sidgwick :

“ But in seeking to make punishments ‘exemplary’, care should be taken to prevent them from being offensive to popular feeling, and so likely to arouse aversion to the administration of the law, and dangerous sympathy with the criminal punished. Moreover, the infliction of even transient pain beyond a certain degree of severity would be opposed to a sentiment of humanity, which it is not merely political dangerous to offend, but important to the well being of society to maintain and develop.”

That is exactly the reason that I urge against the enactment of this Draconic legislation as it is now being contemplated by this Bill. In whom are you going to vest this enormous power ? Is it not to your Police ?

[Mr S. C. Mitra.]

Here I should like to refer to some of the Government Committees which have enquired into the police administration in the country and have come to the conclusion that the police here are not of such high status as to be entrusted with unlimited powers. I shall prove this from the actual reports. I see from the Punjab Government Police Commission Report, 1925, that :

“ There is undoubtedly a change for the better in the treatment meted out to the accused and suspects, during investigations of cases, and actual tortures are now extremely rare. But apart from this, it cannot be said that any real advance has been made. Bribery and corruption appear to be as universal now as 20 years ago, the only difference being that the increase in the wealth of the Province leads to the payment of larger sums.”

That, Sir, is the report of the Government Commission and we are now being relegated to the Police Raj, by this Bill.

Then, I should like to urge for a minute or two to the points put forward that the Ordinances were necessary for the no-rent campaign in the United Provinces and for the volunteer movement in the North-West Frontier Province. Public memory is very short and, so, I should like to remind the House that the no-rent campaign in the United Provinces was not started as a measure of civil disobedience. The no-rent campaign was started as a protest against the policy of the Government to exact the full amount in a year of scarcity. (Hear, hear.) Really the civil disobedience movement was commenced after Mahatma Gandhi's return and I have had occasion to tell this to the House before, and I would remind the House again, that there was a talk of settlement in the United Provinces amongst the Congress leaders and Government about the terms of remission of rents, when, all of a sudden, the Government issued orders that before the end of the month the full amount of the rent should be paid and, therefore, the Congress people who were fighting for the cause of the poor peasants were compelled to induce the people to cease payment of any rent till the settlement was arrived at. It was not in pursuance of the civil disobedience movement that the no-rent campaign was started in the United Provinces, it was merely due to economic causes.

The same thing applies to the volunteer movement in the North-West Frontier Province. So far as I know, when Khan Abdul Ghaffar Khan refused to attend a dinner party on certain grounds, he was arrested. I do not know why Government are averse to encouraging volunteer movement in the North-West Frontier Province. This country is absolutely unarmed and so, instead of encouraging volunteers, the Government put a ban on all organisations of volunteers. I know that even the small sum of money of 15 lakhs that is set apart for territorials in India cannot be spent for the training of Indians, while a sum of 50 crores is not sufficient for the military. I shall be very glad to know why this movement of volunteer organisation by the Congress people who all profess non-violence was asked to be disbanded and their leader arrested and kept in jail for an indefinite period. Is it because he refused to attend a dinner party on account of reasons of health ? I am reminding the House of these things, so that the House may not be led to believe that the no-rent campaign and volunteer movement were the outcome of the civil disobedience movement and they were the main reasons for the issue of the Ordinances.

I have got a number of quotations, which I liked to place before the House, but, as I have to be brief, I shall not trouble the House with a long list of them. I have got several quotations to show how these Ordinances

are administered in Bengal and other Provinces and, if the Ordinances are now made permanent, they will be greatly abused. I wish to prove to the House by citing several instances, how the Ordinances are administered in different ways. Panchanan Das, convicted by the Additional Presidency Magistrate of Calcutta, under the Explosives Substances Act, was sentenced to pay a fine of Rs. 200. According to the Public Prosecutor, he was a police informer and had staged a bomb explosion in front of Halliday Park to implicate some one in a false case or for some other nefarious object ! Take the case of Mr. Abhayankar, *ex-M. L. A.* He is a barrister and leader in the Central Provinces. He was fined, in the first instance, Rs. 20,000 for mere picketing, involving no moral turpitude committed by satyagrahis and he was sentenced to two years imprisonment for the so-called breach of 'parole'. These are only a few instances to show how vindictive the sentences under the Ordinances are.

Now, coming to the Press Ordinances let us see how they are applied ; section 13 (1) and (2) says :

"No person shall communicate any information regarding the military or police forces. If any newspaper publishes any such information, the owner, publisher, editor and printer of such newspaper shall be held to be liable for such publication."

The Secretary of the Indian Journalists' Association wrote to the Bengal Government enquiring what was meant by the expression "regarding the military or police forces", whether ill-treatment of the public by the police or military, etc., was covered. The Government refused to give any elucidation, but said that the Commissioner, Chittagong Division, had full authority to pass for publication any news items which he thought fit and Government did not intend to interfere with his discretion. It was found in the *Statesman* that a vivid description was given not only of the movement of the troops in Chittagong, but also an indication was given of the places which were harbouring fugitive leaders of the revolutionary party, thus giving a clear hint to the fugitives to clear away. The *Statesman* also described the net work of narrow creeks with their shallow draught which afford means for a quick get away, thereby telling the fugitives how to get away. All this description was found in the *Statesman* and it was known to the Government of Bengal and yet no steps were taken against the *Statesman*, while for much less offences Indian-owned newspapers were prosecuted and punished. Here is another case from Ahmedabad. Three Congress volunteers were arrested on the night of the 2nd August while they were roaming about with lights and torches in their hands and crying "searching for Swaraj in darkness". (Laughter.) In the Madras Council, on the 22nd March last, a reference was made to Dr. Subrahmanyam's case. It was stated that the police sub-inspector admitted, in cross examination, that certain persons wearing *khaddar* were stripped of them, that a police constable brought kerosine oil which was poured on these clothes, that there was a bonfire in the public streets of Rajahmundry of these clothes and that foreign cloths were compelled to be purchased and worn by them. That is the sort of way in which the Ordinances are applied.

I will give another quotation about 1,400 prisoners having been on penal diet. Babu Sukhlal Nag of the Bengal Council asked the following question :

"Is it a fact that all the jail population of nearly 1,400 persons were kept on penal diet for four consecutive days ? If so, will the Honourable Member be pleased to state the reasons thereof ?"

[Mr. S. C. Mitra.]

The answer was given by the Honourable Sir P. C. Mitter :

“ Yes, for refusing to work and refusing to wear jail caps.”

I will not tire the House to-day with the details, for, in the further stages of this Bill, I think I shall have more time to be able to deal more fully with the abuses of these Ordinances, and the House will then be able to see in what state the country will be if this Bill be enacted.

I should like to say only a few words about terrorism. Terrorism as such is really not only a crime against society but, as the Honourable the Home Member very ably put it, any kind of Government is impossible, whether it is Swaraj Government or any other Government, if terrorists are allowed to force their views on pain of violence or even of death on the authorities. So there is no question that all means that may be conceived should be applied for rooting out terrorism. But it is just the other thing to call somebody a terrorist and then condemn him. I am really thinking just now of Bengal. Great public leaders like Mr. J. M. Sen-Gupta, Mr. Sarat Chandra Bose, Sjt. Subhas Chandra Bose, Professor Jyotish Chandra Ghosh, Mr. Surendra Mohan Ghosh, Mr. Arun Chandra Guha,—I know all of them most intimately. What is the use of arresting them and keeping them in prison for a very long period without any charges and then condemning them for a long indefinite period ? It is a very delicate matter, but I speak with a certain confidence, because I feel that I am in contact with the thoughts of the younger generation in Bengal ; and when these energetic and visionary youths find that their leaders are kept in jail for a long time, for not committing any offence, when they find that all constitutional means for the attainment of Swaraj fails, when they find that the whole country is terrorised by Ordinances, their vision gets blurred, they run amok and these crimes are committed. It is no use merely suggesting that by some drastic enactment you will cure them of this evil. As a matter of fact, for the last few months or nearly a year we have practically, martial law. Government have all the laws that they wanted ; they can arrest any man at any time without showing any reason ; they can keep him in prison for any length of time, and in some cases these detentions have extended to 9, 10 and 12 years. Government can at any time take possession of any property ; somebody occupying a house may be asked to vacate it within four or five days. Then, any gentleman may be asked to report thrice or five times a day at any *thana* ; any gentleman, whatever may be his position, may be made a special constable, merely to humiliate him and for no other purpose. I remember the Calcutta High Court once denounced this practice of making special constables for humiliation as being against the purpose of the legislation about special constables. All these things are possible under the laws that we have. My Honourable friend, Mr. Ghuznavi, wanted stricter measures. I cannot conceive what he was thinking of. It is really a painful thing to see the terrorists coming with a pistol in one hand and poison in the other. I do not know of any punishment worse than death, but they postulate that position ; and, in the last few sad cases, they sacrificed their lives. Mr. Ghuznavi may be thinking of burying them alive or some such thing, but my point is, how will legislation cure this evil ? And that is what I should like Government to think over. As a matter of fact, it is not very lightly that we think of these things. Sir Muhammad Yakub flared up at my friend, Mr. B. Das, when

he asked about that red leaflet. My friend, Mr. Das, wanted to know what appeared in that leaflet, because Sir Muhammad Yakub only read a few passages. It is strange that these leaflets now-a-days come only to Knights and would-be Knights. I have consulted other friends on this side of the House as to whether they receive these leaflets, because I wanted to read them, but they have not got them. Somebody told me that one Mr. Lacey of the *Statesman* gave him that leaflet, but, Sir Muhammad Yakub told me himself that he got it from Mr. Benthall. Anyway, it pays now to be friendly with Mr. Benthall who has now power to secure many things for many people. But the main thing that I was aiming at is this : I am glad that my Honourable friend, Mr. James, has very kindly asked for the co-operation of the Bengal Members and, I think, my leader, Sir Abdur Rahim, has decided that we shall meet and consider this question. But I find that the Government of India as such have now ceased to devise any means for eradication of the evil. As the Honourable the Law Member said, the function of the Government of India is to have repressive measures, and the constitutional side is reserved for the Secretary of State and not the Government of India. I very much lament the impotence of the Government of India. On the big issues they are dictated to from high, while on these smaller pieces of legislation it is the provincial Governments. Whatever they want, they get it enacted here. The Honourable the Home Member is very busy with his files and if he has any leisure it is devoted to dinners and dances ; and really it is very difficult to find time to consider these very serious measures. I remember that once when I came out of jail, that God-fearing and pious Governor General, Lord Irwin, sent for me and wanted to have a talk with me to feel how the younger generation feels about these matters. Since then I have found it very difficult to get any Government Member to discuss these things seriously so that they can come to some settlement and eradicate the evil. I know I am going beyond my time limit ; yet I must say so far as I know the young generations not only in Bengal but throughout India, it is not really a position that cannot be tackled successfully. The leading men, whom the Government call revolutionaries, are not unreasonable. My friend, Mr. Das, was challenged the other day ; but I accept that challenge and, I say, if there is full Dominion Status not to-day, if it is even in the course of ten or fifteen years, I can say with some confidence that this revolutionary crime will cease, at least by 95 per cent. There is no doubt in my mind. It is not a fact, as it is preached, that the revolutionaries are irreconcilables and they want the Britishers to go away bag and baggage from India this day, this very moment. These are really falsehoods ; it is untruth to prejudice the mind of the English people in England that these things are propagated. I know the difficulties of the present Government with a majority of diehards and conservatives in the British Parliament. The Government of India are very doubtful if they can bring about what they consider to be the best and necessary to meet the situation in India. I know it is stated in the newspapers that the Viceroy only is consulted ; the Government of India are not even consulted on these matters ; it is informally that the Viceroy asks this Member or that Member or all Members, but constitutionally they are ignored. I speak, of course, subject to correction—I read it in the newspapers. If that is the position of the Government of India, I do not know what remedy we can suggest and what useful purpose it will serve. I personally believe that if the Home Member could get full liberty to work

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in the way as he thinks best in the interest of India—and it was clear from his very reasoned and very good speech which I appreciate—had he the full scope to tackle the situation in his own way, perhaps he would not have come to this House with such legislation, but would have tried to give India full Dominion Status in course of a short period of time. But unfortunately the Government of India have ceased to function. The third point is about the communists as the Honourable the Home Member said. I say atheistical principles and theories and the way they carry out those principles will have no support in this spiritual land, but so far as the socialistic side of communism is concerned every poor country, whether it is India or China, you will find any number of men supporting views where there is some provision for food and clothing for all people. From that wider standpoint, communism is a great force and I think it is not only in India, it will be in England and other places also where this system of capitalistic organisation would fail to meet the situation. If the five years' plan that Russia has already gone through and the future five years' plan if it succeeds, if they can really provide sufficiently for the poor and the needy, certainly nobody, no amount of legislation can put a check to propagation of their views ; otherwise there is no imminent danger from communism in India for which drastic legislation is necessary. But, as I say, I would have supported this legislation had I agreed with the Honourable the Home Member that it will secure any of the three purposes that he wanted to secure. It will certainly secure the end of the freedom of the press, freedom of association, personal liberty, protection of property. It will have those effects, and if anybody has the ulterior object that this legislation will help in killing the feeling of nationalism in India, I think he is also sadly mistaken. Because when a nation starts on the high road of freedom, no legislation, no oppression can check the forward march. The Indian nation will have its Swaraj and no amount of legislation will put any effective check to that progress. So, I hope, that is not the ulterior object of anybody here ; far it be from the Honourable the Home Member that by any such legislation he should attempt at such a device. Sir, I oppose this motion.

The Assembly then adjourned for Lunch till Five Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Five Minutes Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Sir Abdulla-al-Mamun Suhrawardy (Burdwan and Presidency Divisions : Muhammadan Rural) : Mr. President, I rise to intervene in the debate at this late stage as I feel that I would be failing in my duty if I were to record my silent vote on this momentous question before the House. I am glad that I have been given the opportunity of addressing the House on the afternoon of the fifth day of the debate as, thereby, I am relieved of the necessity of making a lengthy speech or dwelling at length on the various aspects of the question or of delving deep into the causes and history of the movement which the Bill is designed to meet or of examining closely the various provisions and clauses of the Bill. I shall content myself with making a few general observations..

But, before I do so, I should like to take note of an important suggestion made by my friend from Bengal who has just preceded me. Mr. S. C. Mitra said, towards the conclusion of his speech, that if Dominion Status is granted to India, revolutionary crimes would cease in the country. I do not question the sincerity and earnestness of his statement. But I am afraid he is presuming too much. I am fully aware of his influence with the youngmen of Bengal ; yet he must be a bold man who would assert that the mere announcement of Dominion Status would lead to the cessation of revolutionary crimes. I am reminded of the simile suggested to me by a valued and respected friend in the House that when a dialethic patient develops extreme symptoms of the malady and carbuncles burst out, there is little use in trying to call in a physician to remove the root cause of the disease. One has to call in the aid of the surgeon. Dominion Status is coming ; Dominion Status is bound to come. At Westminster and Whitehall British Statesmen are concentrating and bending their energies to the evolution of an advanced constitution for India. We have no ground for being disheartened, nor should there be any ground for despair. Let us hope that the Demon of Terrorism would be laid at rest by the dawn of Dominion Status and let us hope that both my friend, Mr. S. C. Mitra, and myself will live to see the immediate cessation of revolutionary crimes on the announcement of the new constitution.

Sir, the Honourable the Home Member in his admirable speech had referred to the triple threat which the Bill is designed to meet. He also gave three reasons for introducing this Bill before the House. He referred to the three categories into which the various provisions of the Bill fall, and you, Sir, on the very first day of the debate have told us that there are three issues before the House. As regards the triple threat, the three offsprings of the Spirit of Unrest, which are disturbing the peace and tranquillity of India for some time, namely, communism, terrorism and civil disobedience movement, the Leader of the Independent Party was quite right in saying that in the Bill there is no mention whatever of communism. I would even go further and say that there is no trace of communism in the country itself but for the fact that I see traces of the insidious and subtle influences of communism in the revolutionary measures which are brought before the House from time to time in the name of social legislation striking at the foundation of the ancient beliefs, and cherished customs and habits of the people of India which receive cordial support from the European Group and even from the Honourable the Home Member himself who is so anxious, so solicitous, to preserve the beliefs and habits of generations, the sudden disappearance of which, according to him, will engulf and precipitate the whole fabric of Indian society into abysmal depths yawning below. Anyway, whether communism exists or not, it is quite immaterial to the subject before us. If terrorism exists, if civil disobedience exists, there will be ample justification for the Government to ask for power to deal adequately with the evil. So far as terrorism is concerned, there is no provision in the Bill at all, as pointed out by the Leader of the Independent Party, to deal with that evil, unless the provisions for the better control of the press is regarded as being directed against terrorism. As regards the civil disobedience movement, the existence of that movement cannot be doubted. Some speakers have said that it is on the wane, while others have asserted that it is at its zenith. But whether on the wane or at its

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zenith, whether it is alive, dormant, or dead, so long as Mr. Gandhi is alive, the movement will certainly remain alive. My friend, Mr. James, the other day read out a passage which says that Mr. Gandhi looks upon the civil disobedience movement as an article of faith. Now, so long as it is an article of faith with him, and so long as Mr. Gandhi lives, so long will this movement remain alive, and we all know that in spite of his desperate resolve and his determination to die, Mr. Gandhi is a die-hard. The movement is not dead even if it is scotched. The Honourable the Leader of the Independent Party has complained that there is no definition of civil disobedience movement in the Bill, and when Mr. James said that he has defined civil disobedience movement, he retorted by saying that Mr. James is not the Bill. It is quite true, Mr. James is not the Bill; neither is Mahatma Gandhi the Bill. But if the Honourable the Leader of the Independent Party is really serious, he can accept either the definition of Mr. James or apply to Mr. Gandhi for the definition of civil disobedience movement. I have no doubt that there is ample justification for Government asking for adequate powers to deal with the situation. My difficulty is not why you ask for powers to deal with the situation, but why you do not go on with the Ordinances, why are you asking the House to support this measure and asking us to put a temporary measure permanently on the Statute-book? It would, like untouchability, stigmatise the whole of India permanently as a land of terrorists and anarchists. Why render this measure a permanent measure whilst terrorism, in the words of the late Leader of the House, in his last flickering flame of his expiring official enthusiasm, is "only a passing phase"? He described terrorism yesterday as a passing phase. If terrorism is a passing phase, and civil disobedience, in my opinion, is not more terrible than terrorism, then why have a piece of permanent legislation? You can go on with your Ordinances. I opposed the motion of my Honourable friend, the Leader of the Nationalist Party, when he invited the Treasury Benches to bring the Ordinances in the shape of a Bill. Ukases, imperial irades, firmans and Ordinances are more in keeping with the spirit and the instinctive beliefs and spirit of the East than any legislation passed by mushroom institutions of modern growth.

The Honourable the Home Member gave three reasons, if I am not mistaken, for bringing this legislation before the House. He said that during the last Session of the Assembly, the Leader of the Nationalist Party had invited the Government to place legislative proposals in respect of the Ordinances and that his side of the House would offer co-operation and support which they had never stinted. Knowing the Honourable the Home Member as I do, his wisdom, sagacity and shrewdness, I am really surprised at the statement embodied in his speech that it was the invitation of the Leader of the Opposition which encouraged him to bring this measure before the House. If he had really seriously misunderstood the meaning of the gesture and co-operation of the Leader of the Nationalist Party, I believe to-day he realises that he was under a great illusion and delusion. The Leader of the Nationalist Party has extended to him a further invitation. I was not in my seat when he addressed the House, but I find it mentioned in the newspapers. The Leader of the Nationalist Party urged Government to withdraw the present Bill and re-draft it and bring the matter up in

the November Session. I have heard whispers in the lobby of the decision and determination of the Honourable the Home Member being shaken by this subtle suggestion. I hope he will think twice before he walks into the parlour of my Honourable friend, the Leader of the Nationalist Party. He has reminded me of a criticism, which I had read as a student, of Carlyle's attitude towards Humanity by a competent critic, namely, that his attitude towards Humanity was that of a mad dog which barked at a man if he moved, and barked still louder if he did not move. The Leader of the Nationalist Party was loud in his demand for the Ordinances being brought in the shape of a Bill before the House, and now that the Bill has been brought before the House, he is louder in his denunciations of the Bill. As I have already stated, I hesitate to support the placing of this piece of legislation permanently on the Statute-book.

The second reason given by the Honourable the Home Member is this. It is not sufficient that the powers should be existent merely until the civil disobedience movement ceases, but that they should be available without odium that naturally attaches to the issue of Ordinances. I do not know what odium he means. Odium in the eyes of the British Indian public, or odium which attaches to rule by means of Ordinances in the eyes of the civilised world, especially in the eyes of the countrymen of the lady who stampeded Government into co-operation with the Nationalist Party led by my Honourable friend, Mr. Harbilas Sarda ? If really the odium of the Ordinances weighs heavily on the shoulders of the Honourable the Home Member, I do not see why he should not shift it on to the shoulders of the Leader of the Nationalist Party and absolve us, who had opposed his suggestion of bringing the Ordinances in the shape of a Bill, from the odium of co-operating with him in passing this piece of legislation. Finally, the Honourable the Home Member says that he should like that the Government of the future should be in possession of these powers. (*An Honourable Member* : "Louder please.") He says :

"We are disposed to think that these powers should be secured not only for the existing Government during the comparatively short period before it but that the new Government should at any rate start in possession of these powers."

I do not understand why the Honourable the Home Member is so anxious to transfer these new powers to the future Government. The Leader of the Independent Party had already told the House that if the Congress was the enemy of all constitution, why give these powers to the Congress ? He was quite right in suggesting that. It must be obvious to every one that the Government of the future will not be the Government of my Honourable friend, the Leader of the Nationalist Party, nor that of the Leader of the Independent Group, nor in spite of the kind references of my Honourable friend, Mr. Ranga Iyer, the Government of Mr. S. C. Mitra or of the humble person who is addressing the House. It will be the Government of those very people who are now rotting in jail, in order to curb whose activities these Ordinances have been promulgated. Apart from that, those gentlemen when they come into power, these Lenins and Trotskys of the future, they will discard with contempt and throw into the dung heap of oblivion the weak weapons and instruments forged by the weak and vacillating hand of the present Government. They have got their own weapons, more drastic, more

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effective than the methods which the Honourable the Home Member is thinking of forging by means of this legislation.

Now, the only argument which really appeals to me is the argument which was adumbrated by Mr. Puri when he referred to a certain preliminary objection, which unfortunately he did not develop quite clearly. At any rate I could not understand exactly what his preliminary objection was. But I understood, if I am not mistaken, that his contention was that the promulgation of the Ordinances for the second time is not legal, that the Governor General, having once promulgated the Ordinance, had exhausted his powers and that he could not promulgate it for the second time. If that is so, even if some legal doubts have been expressed, there will be ample justification for the Honourable the Home Member to come before the House and ask for adequate powers to deal with the situation by means of legislation but which should not be permanently placed on the Statute-book, but whose duration should be limited to two or three years. Then I now want to come to the three issues before the House—the rejection of the Bill, circulation for the eliciting of public opinion and, finally, reference to a Select Committee. As regards the question of absolute rejection, I must say that I have respect for those people who openly, frankly and fearlessly express themselves in opposition to the Bill, but I cannot understand the attitude of those gentlemen who consent to serve on the Select Committee, then give notice of dilatory motions for circulation and finally express themselves in strenuous and vehement opposition to the Bill. Why do they consent to serve on the Committee if they are really, honestly and sincerely opposed to the Bill? Mr. Puri has complained about a certain gentleman running with the hare and hunting with the hounds. I think the description is more applicable to himself than to the gentleman to whom he sought to apply it. Sir Muhammad Yakub, in the course of his speech, has pointed out to us the danger of a total rejection of the Bill, because thereby the House would be deprived of the opportunity afforded by the Select Committee of removing the objectionable features of the Bill. On the Select Committee I find the names of such gentlemen as Mr. Puri and Mr. S. C. Mitra. Nobody could suspect them to be “the henchmen of Government” and I also find the honoured name of my friend, Mr. Gaya Prasad Singh. One word more before I sit down. Mr. Mitra, in his speech, referred to a leaflet which he said has been distributed to Knights and would-be Knights. I have the misfortune of having been recently dubbed a belted Knight, a misfortune which I share with the Leader of the Nationalist Party and with the Leader of Mr. Mitra’s own Party. I can assure him that I have not been in receipt of any such leaflet. Why that honour has been denied to me, I do not know, except perhaps because of my past association with him and, if his present Leader has been denied the same honour, it may be due to his present association. Before I sit down, I should like to urge upon the Treasury Benches this. I would invite the special attention of the Honourable the Home Member to a constructive suggestion which my Honourable friend, Mr. James, let fall in the course of his speech the other day. He had invited the attention of the House and of the Government to a certain passage in the Simon Commission’s report, namely, the extract from the note of Viscount Burnham where he urges on Government the desirability or imperative need of establishing a Bureau of Information. I have all along felt the

need of such a bureau of information and the House and the Honourable the Home Member must have noticed the effect and influence of newspaper cuttings on my Honourable friends, Mr. Neogy and Mr. S. C. Mitra. Government, by the provision for the better control of the press, may suppress the dissemination of information, but that negative process alone is not only not of advantage, but is fruitful of danger. Government must do something by the establishment of a bureau of information or by other means to disseminate truth and correct information, because half truths are more dangerous than whole lies. Mr. James also made a passionate appeal yesterday to the Members of the House and especially to the Members from Bengal for co-operation. All of us have readily responded to his appeal, but Mr. James and other European friends do not know the difficulties of those who wish to co-operate with Government and who wish to do everything in their power to stamp out the evils of terrorism and civil disobedience movement or any movement against law and order. If anybody has any doubt as to our difficulties, one has only to refer to the Honourable the Leader of the Independent Party who has considerable experience, as an official of Government and now as a non-official. As a matter of fact, he referred to the difficulties in the course of his speech yesterday. The Honourable the Home Member also made an appeal to us to mobilise public opinion, but he did not extend to us an invitation of the nature extended to us by a member of the European Group. I still await an invitation from the Honourable the Home Member of the Government of India or of the Honourable the Home Member of the Government of Bengal to non-official Members of the Assembly to assist them by placing constructive suggestions as to how to stamp out the evils of terrorism and civil disobedience movement in Bengal. So far as my experience goes, I know how difficult it is to help the Government. I happened to represent Dacca at one time in the Bengal Legislative Council. Now, if I were to go to Dacca, the city of my birth, I am afraid that the present Bill would be applied at once to me. I happened also to be the first elected non-official Chairman of the District Board of Midnapore. If I were in Midnapore, whom should I try to see to bring him back to the path of law and order? It is not the District Officer, it is not the officials of Government whom I should approach, but I should go to the Raja of Narajole. But the moment I am there, I run the grave risk of being deported under the summary provisions of this legislation (Laughter), and, I am perfectly sure, that the Honourable the Home Member will be unable to protect me, because of his implicit faith in the reports sent to him by the man on the spot, although my own experience in other spheres teaches me that when the man on the spot, even the Governor of Bengal, sends up recommendations which are not acceptable to the gentlemen here, they will then conveniently forget their theories of "the man on the spot".

I have experience, Sir, of how a man, however faithful, however consistent, however persistent he may be in his loyalty to the Government, if he does the slightest thing which touches or gives offence to an underling of Government, then vindictive malice pursues him throughout his life, and his lifelong co-operation does not suffice to protect him. I am sure, my Honourable friend, Sir Hari Singh Gour, and my Honourable friend, Sir Zulfiqar Ali Khan, will bear me out when

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I say that the sin of co-operation is probably greater than the sin of non-co-operation. (Laughter.) Then my friend, Mr. Joshi, has told us how the pseudo-non-co-operation of Sir Tej Bahadur Sapru has proved to be more powerful and more effective than the co-operation, genuine and sincere, of any of us (Hear, hear); and Sir Hari Singh Gour perhaps will tell us that it will take him years and years of penance before the sin of co-operation with the Simon Commission will be forgiven or forgotten by Government. (Laughter.) Sir, I know I am running a grave risk when I speak out my mind fearlessly and frankly. Sir, I am between the devil and the deep sea. (*An Honourable Member* : "Who is the devil?") I know I cannot satisfy my Honourable friends to my right, nor my Honourable friends to my left (Laughter), but I will satisfy my own conscience. Sir, Ordinances have failed to achieve their object so far as terrorism in Bengal is concerned, and legislation embodying the provisions of such Ordinances will make no difference whatever. (Hear, hear.) The long-drawn-out trial of the Chittagong raiders and of the murderers of Inspector Ashanullah ended like a mountain in labour and gave satisfaction to no one but the Government of Bengal who perhaps felt that the majesty of law and justice had been vindicated. Sir, they are lulled into a false security. The Governor of Bengal goes to Chittagong and delivers a speech there, and then the Government of Bengal repairs to the cool heights of Darjeeling; and the popular, able and energetic Commissioner of the Chittagong Division is sent to chew the cud of silence in Simla. Everything appears to be smooth on the surface. Yet, in spite of the Ordinances, violence did suddenly burst out in Chittagong demonstrating that your Ordinances are no more effective than the mosquito brigades of the Calcutta Corporation that cause so much annoyance to the peaceful citizens, and not to the mosquitos. Sir, the Home Member perhaps does not know how difficult it is for even some Members of the Assembly to have access to the officials in order to offer constructive suggestions in the interests of peace, order and good government. It is easier for some of us to have the honour of an interview with His Excellency the Viceroy than to have access to the *chaprassi* and an orderly of His Excellency the Governor of Bengal. I do not mean any reflection on the present Governor. I have had the honour of enjoying his hospitality and I know that he is a great gentleman and has a great personality of charming manners but, at the same time, I know also that there are prominent Members of this House who have had the honour and privilege of his acquaintance in London, but when they sought an interview with His Excellency in Bengal, they were told by those gentlemen who are anxious to protect him from coming into contact with the pernicious influence of prominent Members of the Assembly who come from Bengal and who have become a sort of outcasts, so far as their own province is concerned, that His Excellency could not see them. Therefore, I have had very little opportunity of approaching Government officials or coming into contact with them socially or otherwise, as most of my time is spent either in Delhi or in Simla.

Sir, merely by passing legislation and promulgating Ordinances Government can never, in my humble opinion, be able to cope with the situation or crush the movement in Bengal. Efforts should be directed

to humanise the agencies for the application and the administration of your Ordinances and of your law. A serious and genuine attempt should be made to overhaul the iron, wooden, ante-diluvian and soulless machine, which, in the name of peace, is creating havoc, desolation in Bengal, whose harsh and jarring notes are alienating the sympathies of the supporters of law and order and driving them slowly but surely into apathy, inaction and despair.

Dr. B. D. Dalal (Nominated Non-Official) : Mr. President, it is universally recognised that the Executive must have full powers to meet emergencies. So, when the civil disobedience movement was started, to meet that situation Government were compelled to abandon the policy of deliberate forbearance which they had patiently pursued and to promulgate Ordinances to ensure the maintenance of law and order. As a result of the Ordinances, lawless movements have been controlled to a considerable extent, but still the civil disobedience movement does exist to a certain extent. However, at present conditions so prevail that it has been considered desirable to withdraw the Ordinances and to replace them by a Bill to supplement the ordinary criminal law. The object of this Bill is to strengthen the ordinary law so as to prevent activities in support of subversive movements which do not come within the letter of the existing criminal law. This Bill includes certain main provisions of the Special Powers Ordinance, X of 1932. In his eloquent, admirable, and effective speech, the Honourable the Home Member has dealt with these provisions so exhaustively, so lucidly, and so clearly that it is superfluous for me to add a word. But I will say this that this Bill is required for the suppression of lawless movement, and for the protection of the public, and for the protection of private liberty. Sir, so far as I have been able to gather, there is a sufficient consensus of approval behind the Bill. I confess that there is some opposition, and I am fully conscious that dissentient voices have been raised ; but, Sir, I submit that so far as my experience goes, all legislation is unpopular with somebody, and Honourable Members must be aware of the most salutary measures denounced as iniquitous at the time of their introduction and of the Government savagely abused for the passing of the Acts which were afterwards extolled and applauded as their principal title to fame. I foresee that such would be the case with this Bill (*Honourable Members* : " Question ") and I will go further and say that even those Honourable Members who have opposed this Bill will some day bless the Honourable the Home Member. (*Mr. B. Das* : " No fear. ") If the Ordinances be withdrawn, I am strongly of opinion that it is absolutely necessary to pass some such legislation as is now before this Honourable House in order to resist forces which would create a state of anarchy and chaos, and to bring to fruition the policy of Government in the framing of the new constitution and in the establishment of peaceful conditions in India, and to hand over to the future Government a working administration in such a manner that the transfer of command shall be a transfer of power and not of weakness. Government cannot be expected to hand over authority to an India convulsed by disorder. India is on the threshold of a great political change on a democratic foundation ; so it is a matter of great importance that the peace and tranquillity of India should not be disturbed in any way during this transition stage. If democracy is to succeed in

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India, it is very important that law and order should be properly maintained. It is for these reasons that the Government of India are anxious to secure these legislative powers to maintain peace. I have no doubt that as a result of the labours of the Select Committee the Bill will emerge a useful and efficient measure, and I earnestly appeal for the support of all Honourable Members who have at heart the peace, welfare, and happiness of the people of this country.

Mr. B. V. Jadhav (Bombay Central Division : Non-Muhammadan Rural) : Sir, no doubt this Bill is a very important Bill and, as it was very drastic, it was necessary that it should be circulated for eliciting public opinion. With that purpose I had tabled an amendment which was moved by my Honourable friend, Mr. Anklesaria. I would again urge upon the Honourable the Home Member the necessity and the expediency of sending the Bill for eliciting public opinion and the period that has been set need not come in the way of the Bill being passed at the next November Session of the Assembly. The Honourable Mr. Haig has already anticipated such a motion for circulation and he said that they could all shrewdly guess what sets of opinions would be received thereon. I may point out to the Honourable Member that on every measure, circulated for opinion, there will be three sets of opinions; some will be in favour of the measure, others will be opposed to the measure and a third set will give generally milk and water opinions or, simply say, they have no remarks to offer. So, we all know that whatever the nature of a measure may be, if it is circulated for eliciting public opinion, these three sets of opinions will come to us. In that case, is it the policy of Government, may I ask, not to circulate any Bills at all henceforward, because the nature of the replies can be anticipated as I have stated just now? I want to know, Sir, from the Honourable the Home Member whether that has become now the policy of the Government not to circulate any measures. Only a few days ago, the Government tabled a motion for circulating Dr. Gour's Bill. So, till that day, the policy of the Government was to circulate a Bill and, since that day, has that policy been changed?

Sir, on the merits of the Bill, I shall say that I am completely opposed to it. In his address to the House, His Excellency the Viceroy said :

“ It is, therefore, worthwhile to recall that at a time when Mr. Gandhi with the other representatives of India was sitting in conference with the representatives of the British Parliament engaged in the joint endeavour to find the greatest measure of agreement as the basis for the new constitution, some of his professed followers in India were actively engaged in organising intensive and dangerous movements directed against the stability of Government.”

My Honourable friend, Mr. Neogy, has shown to us what the Secretary of State and some Members of British Parliament were engaged in doing. While the negotiations at the Round Table Conference were going on, Ordinances were drafted and everything was set in motion. I do not think the blame attaches only to one side and that the other side is perfectly innocent. They have also taken an aggressive part in the affair, and everything was kept ready for the return of Mahatma Gandhi. As a matter of fact, as soon as the Tory majority in British

Parliament got the upper hand, they were chafing under what is called the Gandhi-Irwin Pact and they were trying their best to upset everything and to introduce the reign of strong Government. Their policy was to strike hard and strike at once and, with that purpose in view, everything was kept ready and even a decent opportunity was not sought.

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Matters were taken in hand without much consideration. Mr. Sen-Gupta was arrested before he got down from the boat and even before he opened his mouth telling us what he was going to do. Pandit Jawahir Lal Nehru expressed his intention of going to Bombay to see Mahatma Gandhi, but he was arrested on the way and put into prison. There are many such things which I need not take up the time of the House in recounting once more. Suffice it to say, and everybody is almost convinced now, that Government wanted to have a quarrel with the Congress and, as is the general principle, "give a dog a bad name and hang it", so cases were started against Mahatma Gandhi and his followers and they were put in prison. I may quote a small passage from His Excellency's speech again. He says :

"Over the greater part of India, the mass of the population is no longer concerned with civil disobedience and so far as they reflect on the matter at all, there is a feeling of relief that measures have been taken which have restored a sense of security and peace. During the first two months of the movement, the number of convictions was large amounting to over 32,000."

I may point out, Sir, that the Conservative Government chafed under what is called the humiliation of the Gandhi-Irwin Pact and they wanted to smash the Congress and, therefore, under urgent orders the whole machinery of law and order was put into operation and persons were arrested and placed before magistrates and sentenced without saying whether they were actually at fault, whether they had committed any crime or intended to commit any crime at all. I may point out that although I was never a Member of the Congress, I have a good many friends among the Congress people and, as soon as they were released from jail under the Gandhi-Irwin Pact, I met many of them and had talks with them and they assured me that they were not desirous of returning to the prison again. But Government had no patience to see who were really supporting the Congress and its propaganda. Without taking any account of what any one was doing, every one, who was in prison at the first movement in 1931, was at once arrested and put before a magistrate and sent to prison. According to my estimates, nearly sixty per cent. of the old persons would never have done anything to merit going to jail. But, in their impatience, Government arrested all of them and they have now become confirmed Congress people. So, I think the Government are helping the Congress movement and have not crippled it as much as they think they have done. His Excellency the Viceroy says again in his speech, a little further on :

"To us, it is by this time abundantly clear that the movement cannot succeed so long as Government maintains its existing policy."

The same sentiment has been repeated by the Honourable the Home Member. As long as the Government are maintaining the policy, so long peace, as they say, will remain and the movement cannot succeed. So, as soon as the existing policy is reversed, Government are quite sure that the Congress movement will succeed. So, in order to keep down the Congress movement, there ought to be a constant pressure of law

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and, therefore, this Bill has been introduced here. How long do Government think that there will be necessity for the Bill. According to their confession, the necessity will never cease. They think that as long as the law is there, pressing the movement down, so long will the movement be kept under check ; but as soon as the law is taken away, the movement will again raise its head. Government on their admission, Sir, are keeping the steam, so to say, under pressure. The fire under the boiler is not removed, but more and more pressure is put upon the lid and the steam is kept under check. How long are Government to let it go on ? It is a very dangerous situation and one day it may result in an explosion. As I said, the Home Member repeated the same sentiment. He said :

“ None could prophesy when the movement would come to an end so long as its leaders still felt that there was any prospect of success.”

I cannot say anything for the leaders, but I may assure the Honourable the Home Member that the national movement, the movement for the liberation of the nation, cannot be put under check by these repressive measures. It may produce a calm for some time, but the discontent will be seething inside and it will end in quite a different way.

Then, Sir, I am very much thankful to the Home Member for his lofty sentiments and I fully believe it :

“ It was not Government's intention to crush the spirit of nationalism.”

Government may not intend to crush the spirit of nationalism, but, may I ask, what is the spirit of nationalism ? As I understand nationalism, it is the self-respect of the nation. As long as the self-respect of the nation is kept, so long there is nationalism. The idea of nationalism is to keep one's prestige and the reputation of one's nation. India is a subject nation now and India has suffered a great blow in its ideal of nationalism. But this self-respect of the country is also bound up with the self-respect of the country's servants. If these servants of the country are deprived of their self-respect, then, I think the country also suffers in the loss of self-respect, that is, nationalism. When Government say that they do not want to crush the spirit of nationalism and, at the same time, by their acts, they are trying to crush individual self-respect, I say, that these two things are inconsistent. When they are trying to crush the self-respect of individuals, they are trying to crush the self-respect of the nation ; that is, they are trying to crush the spirit of nationalism also at the same time. We have seen how these Ordinances are being worked, specially in the province of Bombay. Innocent persons on any suspicion whatsoever,—whether there are good grounds for the suspicion or not,—are hauled up before a Court. If an individual happens to displease a subordinate police officer, that police officer has his revenge. He at once arrests him and says that he is a partisan of the Congress, and so on. He is hauled up before the magistrate. The police, of course, have got no evidence at all and do not care to produce any. He is placed before the magistrate and, as no evidence is forthcoming, he is discharged. But, as soon as he is outside the Court, he is at once pounced upon and taken to the police office and there asked to present himself once or twice a day before the police officer. It is, of course, very galling to a self-respecting man to be obliged to call at a police station and say that he was present there twice

or thrice a day. Therefore, he naturally refuses to attend, and then what happens? He is hauled up before the Court again a second time for disobeying a lawful order and then sentenced to one or two years' rigorous imprisonment. Even some of the most heinous offences are not so heavily or drastically punished. But this offence of disobeying such a worthless order is punished so heavily. In to-day's paper, I was pained to read of a fresh case. Mr. Bhulabhai Desai, who once acted as the Advocate General of Bombay, was placed before a magistrate and discharged and then he was asked not to leave the town of Nasik. This gentleman is a practising Advocate and everybody knows that he is at the top of his profession in Bombay. But he is prevented from carrying on his lawful profession and he was given an order not to leave the town of Nasik. He naturally refused,—I would have done the same in his position,—and he preferred to go to jail. He has been sentenced to one year's rigorous imprisonment and to pay a fine of ten thousand rupees. The policy of Government in inflicting these heavy fines is almost akin to our old oppressive rulers who, when they found that their treasuries were empty, pounced upon the richest men and fined them very heavily. It was not exactly *loot* in those days, because it was done under the orders of the king. Under the cloak of these Ordinances, this legal *loot* is going on and such heavy fines, as ten thousand rupees, are imposed. And, in the city of Sholapur, a person was sentenced to pay a fine of twenty thousand rupees for such a trivial offence. So Government have been doing everything in their power to alienate the sympathies of the people and to inflame them against their autocratic rule and laws. Then the Home Member said :

“ It was not Government's intention to crush the spirit of nationalism : they were endeavouring to enable that spirit to give a practical expression in framing the constitution.”

Now, Government's object has been explained, that is, they want to frame a constitution and, for that purpose, they are putting into force these obnoxious laws for bringing about a calm atmosphere. Well, Government may parade this as their intention, but everybody knows that a calm atmosphere cannot be created under such circumstances or under such measures. Then the Home Member further goes on :

“ It is not sufficient that powers should be in existence until the civil disobedience movement ceases, but that they should be available, without the odium that naturally attaches to the issue of Ordinances, in case that movement or a similar movement is revived.”

So Government do want these Ordinances, but they do not want that the odium of passing the Ordinances should lie upon their heads and, therefore, they want to share that responsibility with this House. My other friends have dealt with this question and so I need not say anything further. Then :

“ When the civil disobedience movement ceases, ideas may be dormant, but they will not be dead.”

The Government do recognize that the measures they are introducing will not remove the cause of the unrest and the cause of the civil disobedience movement ; they simply hope to keep these movements dormant. As I said before, when these ideas are dormant, as soon as the

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pressure is removed, they will again flare up and will again cause a conflagration. Sir, I was very much struck by a sentence from the speech of the Honourable the Home Member :

“ Not only the present Government, but the new Government should start in possession of these powers.”

I fail to understand, Sir, why, if the constitution that is promised to us and that is coming to us in the near future be a very liberal one, should the Government be afraid of the consequences of the introduction of the new constitution. And why should they think that these drastic powers ought to be in the hands of the new Government ? The Government further say that it will be open to the new Government to discard these powers or leave them unused. Now, may I ask Government—if they think that the new Government should have the choice of either discarding or using these powers—why should they not leave it to that new Government to forge such weapons as they require for the maintenance of law and order ? As the new Governments, under the system of Provincial Autonomy, as it is called, are to have an assured majority in the legislature, I think any measure which may be actually necessary can be enacted *there* for the preservation of law and order, and, therefore, these reserve powers need not be now provided for the purpose of enabling the future Governments to carry on their administration in peace. Then, says the Home Member :

“ We are engaged in the very delicate and difficult operation of handing over power in this vast country from one set of hands to another.”

I have grave doubts as to what the other set of hands will be—because, all that we know is that we are promised Provincial Autonomy ; but the nature and the constitution of such Provincial Autonomy has yet to be discovered. I do not know what that Provincial Autonomy will be,—whether it will be an enlarged edition of the present system under which some subjects are transferred or one under which all the subjects will be transferred. At present the Governor rules with the advice of his Ministers. If, in the future constitution, the Governor is still to rule with the advice of his Ministers, then that sort of Provincial Autonomy will never satisfy any section of the Indian community. In that case, in order to strengthen the hands of the future Government, which means simply the hands of the Governor acting with his Ministers, such drastic powers will certainly be required. So the solicitude of the Government of India to provide for the peaceful administration of the future Government leads me to suppose that the future Government, which is promised to us and which we are likely to get, will be simply nominal, only in name, and that real transference of power from one set of hands to another will never take place. The Governor, with his special powers, will then be all in all, and, in order to maintain the power and prestige of such a Government, such drastic powers will certainly be necessary. The provincial legislatures, under this constitution, will never be with the Government, and, therefore, the Government of India know that in the future, they will have no chance of getting such drastic Bills passed in the provincial reformed legislatures, and, therefore, they are in a hurry to provide for the continuance of power in the hands of the Governors. I need not take any further time of the House. I am concluding. Lastly, in closing his

speech, the Honourable the Home Member made a reference to Thomas Carlyle and borrowed a phrase from him ; he said :

“ A crust has been formed over a great abyss by the labour of many generations which have found expression in the instinctive beliefs and habits of the people : let us beware that the crust does not give way and we find ourselves precipitated into the abyss.”

There is a vast gulf between English interests and Indian interests, but many years' rule has formed a crust over that and, I may say, the crust was strongest when the Great War was fought and India wholeheartedly joined in that war to assist England. The crust was strongest then. At the time the Gandhi-Irwin Pact was signed last year, another layer was put on that crust and it became stronger still ; but, by the enactment of these Ordinances, are Government strengthening that crust or are they weakening it ? And, by the passing of this measure, let me ask the House and the Government whether they are still going to strengthen that crust or going to weaken it

Mr. C S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I congratulate my distinguished friend, Mr. Jadhav, from Bombay on the manner in which he has handled the case for the Opposition. He has completely answered my friend, the Honourable the Home Member, and practically left very little for me to say on certain aspects of the subject under discussion on which I had originally intended to concentrate. He concluded by referring to the peroration of the Honourable the Home Member, a peroration borrowed, as the Honourable the Home Member happens to be a great student of the French Revolution, from Thomas Carlyle, the historian of that revolution. Obviously the Honourable the Home Member sees the vision of a revolution in this country. Naturally he, like the great Home Member that he is, wants to prepare legislation to prevent the country bursting into a flood of revolution. No wonder that the Government think we are on the brink of a revolution. No wonder Home Members are refreshing their minds reading books on French Revolution and thinking of what Thomas Carlyle had got to say. But, if the Honourable the Home Member can quote Thomas Carlyle to suit his own purposes, if he can cite scripture for his purpose, some of us, devils on this side, too, can cite scripture. (Laughter.) For what did Thomas Carlyle say ? The Honourable the Home Member, referring to Thomas Carlyle, quoted from his books on the French Revolution. I am sure the Honourable the Home Member remembers having read in Thomas Carlyle's *Essays—Goethe's works*—the following observations :

“ Men seldom or rather never, for a length of time and deliberately, rebel against anything that does not deserve rebelling against.”

Therefore, there is a rebellion in this country ; the civil disobedience rebellion : there is another rebellion in this House, a constitutional rebellion against the measures that the Government are bringing forward with a view to suppressing the civil disobedience movement, or with a view to suppressing the terrorist movement, but which, as experience has shown, has also been really and deliberately used for suppressing constitutional agitation. The Honourable the Home Member states and, I suppose that he weighed every word that he uttered, that the press laws are meant for the suppression of the terrorist movement. He recalled the history of the Press Act beginning from very nearly 1910 : perhaps he did not go so far : he confined himself to comparatively recent

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history, but when he referred to the report of the Press Committee, he was obviously thinking also of the Press Act of Sir Herbert Risley, which was passed in 1910, when great champions of the old Imperial Legislative Council like yourself, Sir, and Gokhale, Pandit Malaviya and Vijayaraghavachariar and others fought against the passing of every repressive measure. Then, again, was started the constitutional rebellion against the bureaucratic measures, such as the Seditious Meetings Act, against which the late Sir Rash Behari Ghose protested and warned "Repression makes the meat it feeds on". To-day constitutionalists on this side of the House continue the rebellion against coercive legislation that the Government of the day bring forward repeating almost phrase for phrase some of the old discredited arguments used by the Honourable the Home Member's predecessors in office. If the Honourable the Home Member had but read the speech of Sir Herbert Risley in the old Imperial Legislative Council on the Press Bill, he would know that he was not saying anything new when he said it was meant for the terrorist press. That is what Sir Herbert Risley also said : that is what my Honourable friend, Mr. H. G. Haig, says ; and if the Government do not change for another ten years, that is what his successor after five years would repeat. But what is our experience of the administration of the Press Act ? The administration of the Press Act has shown that the Press Act was meant to suppress the constitutional liberties in this country. The very press that has been condemning violence has been gagged. I was the editor of a great newspaper once upon a time. Over a decade ago, the *Independent* of Allahabad which had among Indian papers the largest circulation of the day and had taken up arms against the Government : and I condemned, day after day, the violence of the Government, the violence inflicted, for instance, on the *kisans* in Rai Bareli where the *kisans* were shot, not by the Government people, I admit, but by zemindars. Then, again, there was repression and I protested against the repression in the press and what happened ? I was proceeded against and the paper was subsequently suppressed. It was not a terrorist press : my offence was the condemning of the violence on the part of the Government : the Government ran me in—the Government of Sir Harcourt Butler—and gave me one year's rigorous. They offered not to proceed against me if I accepted a *locus pœnitentiæ* : I publicly rejected it and took the consequence. They said I had preached violence and I answered that I had condemned violence : their original intention was to take action under section 124A ; but they proceeded against me under section 108, under which there is no conviction, but only detention, which was partly responsible for my having been qualified to enter this House even though I had one year's rigorous. Apart from my own case, take the case of my friend, Mr. B. Das of *Young Utkal*. He is the Joint Editor or Chief Editor of that paper and we had, the other day, on the floor of the House, a specimen read out of the writing for which he was almost dragged over the coals. I know my own little paper with which I am associated in a corner of this country was called upon, not to pay any security, but to conduct itself properly, under the Press Ordinance. We were commenting rather severely. I admit, but truthfully and honestly against certain features of maladministration in the neighbourhood of the Punjab. We were not preaching terrorism. I will leave these three cases, and dwell at some length on the case which arose from the writings in the

Bombay Chronicle of Mr. B. G. Horniman. I know his name is anathema maranatha to the Government, but his articles in the *Bombay Chronicle* were written with great restraint. He was condemning the Government for not having shown alacrity in suppressing the riots in Bombay when the Bombay atmosphere was pretty bad. Government showed great alacrity in suppressing political rebellions.

When political murders take place, the Government pounce upon us with legislations after legislations, they bring forward emergency measures, they contemplate martial law, they issue Ordinances after Ordinances which assault anybody and everybody as Mr. Jadhav truly pointed out. But when there was thickening in Bombay an atmosphere of communal riots, when the atmosphere in Bombay was surcharged with communal feelings, the paper which published Mr. B. G. Horniman's writings was punished. Government ought to have known that the Bombay situation was pretty bad, but they took no precautionary measures, they issued no Ordinances, they took no steps to suppress the communal outburst. I admit that in these riots it was the Indian lives that were lost. And, if Bombay had provincial autonomy and were under a responsible Government, if Bombay had been under a Parsee or an Indian Christian Home Member and if he had tolerated or not averted such a riot, that man's political career would have been wiped out. No Indian, worth his salt, would tolerate a ghastly political riot or a communal riot of that kind. If communalism is politics and politics, communalism, the politics of the future Home Member of a self-governing India will be the extermination of communalism and sedition from India. Here when a movement is anti-British, the Government call it seditious, they declare it as rank sedition. When Indian lives are in danger, why on earth don't they issue Ordinances? Mr. Horniman's contentions were correct, and with the responsibility attaching to me on this side of the House and, as a working journalist, I say, that Mr. Horniman's contentions were absolutely correct. We had to denounce the Government time and again for not taking necessary and prompt measures to deal with communal riots. I do not condemn them for taking necessary actions if they want to put down political rebellions, but political rebellions in this country have not cost so many lives as communal rebellions, because the Government took more than necessary measures to suppress political rebellions, but they took no action to suppress communal outbreaks, and when an English journalist takes upon himself to criticise the attitude of the Government, what happens? His paper is brought under the Ordinance. The Honourable the Home Member stands on the floor of this House and makes out a case that the provisions relating to the Press are designed to meet terrorism. Why did his predecessor in this House, that steadfast Scotsman, Sir James Crerar, invite some of us to work in the Select Committee in connection with the Press Bill? Why should his successor bring forward now a measure of this kind? Why was the Press Act amended by an Ordinance after it had been adopted by this House? Why do they waste the time of this House, why do they waste the time of the Members of this House by asking them to serve on the Select Committee which amended the Press Bill to a great extent, and then re-shape it with the help of an Ordinance? Thus is this Legislature being converted into a ridiculous farce. Keep to your Press Bill in a modified form, if you like, even though much against our wish. We agreed with some of the things that Government brought forward, they agreed with some of the things that we objected to in the Select Committee, and

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then they issued an Ordinance to amend the Press Act. I do not think this kind of playing with the Opposition will do for a responsible Government. The Government in India is irresponsible. They cannot be removed by a vote of the House ; they cannot be removed by the electorate, and, therefore, they are playing with the rights and the liberties of our people. They keep what they like and what suits them, and take out what does not suit them. The civil sword is long enough and strong enough to put down the press men who violate what is proper, what is legal. Such being the case, I cannot understand the Honourable the Home Member standing on the floor of the House and saying that the Press requires to be controlled so that terrorism may be uprooted. The Government have been saying this from 1910 onwards. What happened ? Was terrorism suppressed ? Did the Press Ordinance stop terrorism ? I want an answer from the Honourable the Home Member when he rises to speak if he has any answer at all ! Has terrorism increased or decreased with the suppression of the Press ? There have been Press Ordinances, there have been press restrictions, but has terrorism disappeared from this country ? Is terrorism going up or going down ? It is ridiculous for the Honourable the Home Member to say that the press is an agent of terrorism. No, Sir. The terrorist press does not at all come under his Bill, it can never come under his Bill. The terrorist works underground. He issues his own leaflets and pamphlets, and nobody knows from where they come. They are printed underground. The terrorist, the Honourable the Home Member says, is an open individual. I was really astonished, Sir, to find a responsible Home Member of this House describing Terror as an open force. When he talked in that style, he took our breath away. What did he say ? He said :

“ We have in India a triple threat to peaceful progress, civil disobedience, communism and terrorism ; though the main provisions of the B.II are directed against the first of those, I hope the House will not forget that the provisions relating to the Press will exercise a strong controlling influence over the movements of communism and terrorism. Discontented elements will always tend to coalesce, though on the surface these three are very different movements, behind the scenes there are certain contacts ”—

contacts which he has not been able to explain in his lucid and placid but dull speech, because Parliamentary dullness is one of the effective methods of disarming Opposition, and the Honourable the Home Member deliberately made his speech tame with a view to disarm all opposition. Continuing he said :

“ Terrorism threatens Government by *open force*. The other two, civil disobedience and communism, are *more subtle* in their methods, but possibly *even more disastrous in their results*. For their object is to destroy the whole basis of authority and the traditional institutions on which society is founded ”.

As if the object of terrorism is to maintain the whole basis of authority and traditional institutions on which society is based ! Here is an Honourable gentleman responsible for the administration of the Home Department, for law and order in this country who pays a tribute to the terrorists as being an “ open force ”, whereas the civil disobedience walla is a secret snake in the grass. The civil disobedience walla comes up surreptitiously and when a dance goes on, bombs the dancing hall, because he works secretly, whereas the terrorist works in the open ! How ridiculous ! Let the Home Member answer. I am astonished that our talented Home Member should say that terrorism works as an open force. Terrorism is a surreptitious

snake in the grass which comes out suddenly, scotches your life, our lives and everybody's life, and goes back to its hole underground. Terrorism is a secret force, as the Honourable gentleman's predecessors have admitted on the floor of the House, and it must be suppressed. A secret force must be suppressed; an open force can be combatted by military power which the Honourable the Home Member has behind him in abundance. Terrorism is not an open force. It is a dirty, secret organisation which burrows underground, whereas civil disobedience is an open force. The addresses of those connected with the civil disobedience movement are well-known. They appear before the court, they court arrest. How many terrorists has the Honourable gentleman proceeded against under the Ordinances? And how many civil disobedience walls has the Honourable Member not proceeded against under the Ordinances? If terrorism were an open force, so many terrorists must be in jail, and not civil disobedience people. The civil disobedience movement is an open force, as Mahatma Gandhi has repeatedly said, and it is because it is an open force that Government have been able to put thousands of people in jails. They come to the law courts and say: "We do not recognise the British Courts, we offer no defence". Theirs is not a secret organisation. It is an open institution. They work in broad day light; they prosper in open day light, and they flourish under the Ordinances. Sir, I hope the Honourable the Home Member will not encourage the terrorists by such irresponsible statements describing them as an open force in this country, and say that civil disobedience is more subtle than terrorism. Surely not. Terrorism is more subtle. Civil disobedience is not subtle at all. It is open, straightforward, passive resistance.

My Honourable friend the Leader of the House being away I do not want to discuss the question of the difference between civil disobedience movement and passive resistance. But were he here, I would have shown to him that the difference between civil disobedience movement and passive resistance is all the historic difference between Tweedledum and Tweedledee, and if passive resistance was good in South Africa, civil disobedience cannot be very bad in India. But I say to the Government not to exaggerate matters as the Honourable the Home Member has done when he dealt with communism: not only is civil disobedience more subtle and more disastrous than terrorism but also communism! If the Honourable gentleman had in mind the no-rent campaign in the United Provinces, I am sure that his Ordinances are not necessary to combat the no-rent campaign. If the Ordinances were necessary, deputations after deputations of people with stake in the United Provinces would have waited on the Government of India. If they thought that the no-rent campaign was inspired from Moscow, if they thought that it was a communistic movement and if they thought that they did not have the capacity to prevent it and that it was going to wipe out the existing institutions in the United Provinces, surely they would have applied to the Government. How many applications did they receive? The Honourable the Home Member has not so far produced them before this House, nor did his predecessor produce any. It is all well and good to make one's flesh creep by saying that communism is more subtle, more disastrous, than terrorism. That is pure hyperbole, for communism can never find a place in this country. Communism has no present or future in India. The whole religion, politics, life, society in India will rebel against communism. The caste system of the Hindus and the culture of the Mussalmans plainly indicate to those who

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have understood and studied Muslim culture and Hindu caste system that there can be nothing uncommon between Islamic culture and Hindu caste system to encourage communism. Both Hindu and Muslim religious culture, our historic wealth of life, our society, are strong enough to prevent communism without any unnecessary measures from the Honourable the Home Member to curb the press or, for that matter, chain the platform. If it is honestly said that terrorism must be stopped, this Bill has nothing to do with terrorism ; it is only to stop the press, though the same argument was used by Sir Herbert Risley when he said : " We want to cut off the coals that feed anarchism in Bengal " but the Press Act was meant for the whole country. I need not repeat the arguments relating to the press, but I would ask the Honourable the Home Member not to highly colour the picture, not to try and maintain that communism is more disastrous or more subtle than terrorism, that communism is secret while terrorism is open. Neither communism nor civil disobedience has anything in common between them for, in the civil disobedience movement, you have got the worst reactionaries from the communist point of view. Neither communism nor civil disobedience has anything in common between them, because civil disobedience is a nationalist revolt against foreign domination. Call it right or call it wrong, the revolt is there, and Thomas Carlyle has indicated why such revolt takes place in some countries. And not only Thomas Carlyle, but another high authority whom the Honourable the Home Member quoted—if he cited scripture, so can we cite scripture (Laughter), as I said some time ago What did he do ? He quoted Lord Irwin, and I, too, Sir, can quote Lord Irwin and possibly with better effect, for if I may tell the Honourable the Home Member through you, Mr. President, I may tell him " You quoted Lord Irwin when he was raw and inexperienced in Indian affairs ". I quote Lord Irwin when he was mature and fully experienced. After the fullest experience of Indian affairs, after a crowded career, after a great administration, nobly administered, that great Viceroy, on the eve of his departure, uttered these words at a dinner organised by my Honourable friend, Sir Brojendra Mitter. In that great speech Lord Irwin said—not an oration or utterance made at the beginning of his administration with lesser knowledge but made in the fullness of his wisdom, in the evening of his administration, a few days before he laid down his office embodying his intense personal experience. He said :

" In so far as the present movement involves any of the forces that we call nationalism, I would repeat what I have said more than once, that an attempt to meet the case with rigid and unyielding opposition is merely to repeat the unintelligent mistake of King Ganute. And therefore it behoves us to seek another and a better way ".

Lord Irwin could as well have added, the mistake of Dame Partington. A wave of nationalism is passing over the country and the Honourable the Home Member assumes the attitude of Dame Partington. The old lady who lived upon the beach was troubled by the rising tides of the Atlantic. With mop and pattens she was seen at the door of her house, trundling her mop, squeezing out the sea water, with a broomstick, she thought, she could resist the Atlantic waves ; but wave after wave came. She was very good at a slop or a puddle but the contest was unequal. She should not have meddled with a tempest. The Atlantic was aroused and easily beat Dame Partington. It is perhaps this consideration which made the Leader of the

House yesterday, my Honourable friend, Sir C. P. Ramaswami Aiyar, utter these pregnant words. He said in his inimitable style :

“ I hope the Congress will not be crushed ”.

He went on to say, laying, I admit, the emphasis on the “ IF ” :

“ If the Congress stands for a right, if it stands for a righteous, fruitful and energising ideal, it will not die ”.

He also said :

“ Ideas cannot die. You may crush individuals who compose or form a part of the Congress, but ideas will not die ”.

And ideas of liberty which are animating the people of this country cannot be crushed. They can be driven underground ; they cannot be resisted ; and it is these repressive measures which resist the constitutional movement, it is actions such as the present Government in Great Britain and in this country have taken to resist the fulfilment of the goal of nationalism, that make constitutionalists despair whether constitutionalism with the best will in the world can have a future in this country. It may be, we may be wiped out by the Ordinances, the new Ordinance Act on the one hand and by the revolutionaries on the other, but, until we are wiped out, we will perform our duty and repeatedly warn the Government not to play the revolutionary's role, by passing revolutionary measures, ignoring the fact that the constitutionalists are behind them, but to play their part against revolution with the support of the constitutionalists and not to alienate the constitutionalists. We are reasonable. When they come to us with a demand for reasonable powers, as they came during the Select Committee stage of the Press Bill, we gave them reasonable powers. They assumed unreasonable authority behind the back of this House, and when their Ordinances are discredited in the country, when their Ordinances have created antipathy of a kind which India knew never before, when there is sullen discontent sitting like a nightmare on the land, they come to us and say : “ Please endorse our Ordinances in a modified form. We have distributed the sections to the Provincial Governments. We only want some all-India sections ”. If the Government of India had any democratic sense, if they were not insulting the intelligence of this House, if they were not suspecting the opposition of the constitutionalists, they would not have treated us with the contempt with which time and again they have treated this House. When it was necessary for them to make a constitution, they find their men from the hedges of Burma and the highways of Bombay and Bengal, but when they want to repress public opinion, when they want to put down some of their own Round Tablers as agitators, for Mahatma Gandhi was one of the Round Tablers, so were Pandit Madan Mohan Malaviya and Mrs. Sarojini Naidu, they come to us and say, their followers must be still further suppressed. I would rather ask the Honourable the Home Member to ponder over the pregnant passages in the speech of his great Guru, Lord Irwin. I would tell him that picketing, though peaceful picketing, is the privilege of a people who are denied the control of their own tariff policy. If we had parliamentary control over tariffs, there would have been no necessity for peaceful picketing. No one understood this better than Lord Irwin and when the Home Member quotes his great Guru, let him quote him rightly. There is no use of coming to this House with a quotation which is ancient. I will give him something which is the most recent or nearly the most recent. Lord Irwin said in the famous

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Chelmsford Club Dinner, for organising which India will be always grateful to the great Bengali leader, who is the Leader of this House to-day :

“ No Englishman can, without being false to his own history, and in recent years to his own pledges, take objection to pursuit by others of their own political liberty ; nor have I ever been able to appreciate the attitude of those who might be the first in Great Britain to exhort their countrymen only to buy British goods and yet would regard a movement for the encouragement of Swadeshi industry in India as something reprehensible and almost, if not quite, disloyal ”.

These words of a great Viceroy will live in immortal print and it is the best reply to what the Home Member had to say on this subject.

Sir, I must not take much more of the time of this House. I would ask the Honourable the Home Member once again to revive what Lord Irwin said when he assumed office under the present Conservative-Labour Party, the Liberals having practically left it with the exception of Sir John Simon and his followers. Now, when Lord Irwin assumed office, he said that he did so, because the Indian policy which he initiated had not changed. He had the authority of the Prime Minister, Mr. Ramsay MacDonald, and the Secretary of State, Sir Samuel Hoare, when he made that statement. He publicly informed the people of India that every signature that he put on the Indian question will be honoured, the most important of which was his signature on the Gandhi-Irwin pact. I would ask the Honourable the Home Member, instead of trying to draw red herring across the trail of statesmanship, to make every endeavour to revive the Gandhi-Irwin pact. I would ask him to follow the advice of his former Chief whom he served so loyally and so faithfully both in India and in England. Lord Irwin said :

“ I conceive that task in the main to have been that of attempting to secure smooth running for the coach laden with the relations between India and Great Britain. That coach is drawn by two horses, namely, the public opinion of India and the public opinion of Great Britain, and it is the duty of the Viceroy to do his best to see that those two horses pull with, and not against, one another ”.

To-day they are pulling against one another, for this Opposition cannot be ignored. Our policy may be mild as milk and water as the Congress people are never tired of calling it, but we are a factor to reckon with in this country. We may have been ignored for purposes of constitution-making by the Government, but we are not, I dare say, ignored by public opinion of a constitutional kind in this country. It is true that our strength of opposition is belittled by our Congress critics, because we are not extremists. We are moderates of moderates, but as Lord Irwin said, public opinion in this country must not clash but harmonise with the public opinion of Great Britain. Public opinion in Great Britain has become imperialistically aggressive, aggressively nationalistic as was evidenced by the wiping out of the Socialists at the last general election. To-day England is as nationalistic as India. To-day there is as much authority behind the policy of Sir Samuel Hoare in England as behind the policy of Mahatma Gandhi in this country. (Hear, hear.) It is perfectly true that we do not see eye to eye with Mahatma Gandhi—the majority of us on this side of the House. It is also perfectly true that there is a minority in this House which sees eye to eye with him so far as the Gandhi-Irwin pact is concerned. When the Mahatma signed that pact, is the Honourable gentleman aware that he practically signed his

political death warrant, for after the unfurling of the flag of independence at Lahore, after going through a great struggle, he took the courage of a true leader in both hands, lowered that flag, so that England and India may rise or fall together. He did not ask, much against the wish of the extremists in the Indian National Congress, for full blooded independence. He did not seek to cut the painter. He said that he would be content with something less than Dominion Status, namely, Dominion Status *with safeguards*. He comes to this country and asks for an interview with the highest authority in this country. The interview is denied. He is greeted with imprisonment and his followers with the Ordinances. I cannot help wondering whether the Government were really playing the role of statesmen when they brought about this policy. Lord Irwin stated :

“ Time and again in the last two or three years, when there seemed fair chance of getting nearer to this smooth and even pulling of the two horses, the chance has been wrecked either in India or in England ”,

in the present case in England or by the British in India which comes to the same thing. I would appeal to them all and I would appeal to the Home Member not to go forward with this measure. I do not serve on the Select Committee for reasons of my own ; some of my friends are going to the Select Committee ; and I am perfectly certain that they will give a good account of themselves. (Laughter.) (A voice : “ They are anxious to serve ”.) Sir, my Honourable friend, Mr. Reddi, knows that there is no question of anxiety on the part of anybody ; nobody is anxious ; but if we are going to lose to-day, our friends will carry the fight into the Select Committee. Our men will be there : and if the Government do not satisfy us there, we shall begin trouble in this House again, and the actual experience of calamity which he has been passing through for a whole week will hide its diminished head before the prospective plans that the House will see us adopt, when the Bill emerges from the Select Committee. I have only to say, Sir, that I hope he will make such action unnecessary because of Mahatma Gandhi's birthday message. In the latest of his memorable utterances he says :

“ Despite my repeated declarations, it is not generally recognized that by instinct, I am a co-operator ; my very non-co-operation is intended to purge co-operation of all meanness and falsity, for I hold that such co-operation is not worth the name. Therefore, as far as I am personally concerned, when the proper time comes, I should throw the whole of my weight in favour of co-operation ”.

Sir, I would appeal to the Honourable the Home Member to throw the whole weight of his responsibility and position, of his great earnestness and sincerity of purpose, to secure the co-operation of Mahatma Gandhi, who is, or who at any rate can be, the greatest asset of the British Empire in India. Sir, I know the difficulties in England, but it is for the Government of India to see to it, so far as may be possible, to secure the co-operation of Mahatma Gandhi. No stone should be left unturned. Already there is the Irwin-Gandhi Pact which has got to be incorporated into the law of the land. It may be that differences may arise between Mahatma Gandhi and Members on this side of the House on the interpretation of that Pact. It may be that differences may arise between Mahatma Gandhi and Englishmen, but, so long as the Pact is there as a basis to work upon, it is time that the Honourable the Home Member should exert his uttermost to see to it that this night of repression is

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replaced by the bright dawn of co-operation. (Loud and prolonged Applause.)

Several Honourable Members : The question be now put.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : I accept the closure. The question is that the question be now put.

The motion was adopted.

The Honourable Mr. H. G. Haig : Sir, (Loud Applause), before I begin the remarks which I wish to make to the House
 4 P.M. at the close of this debate, I ought to say a word or two with reference to the very fervent speech we have just listened to from my Honourable friend, Mr. Ranga Iyer.

[A this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair, which was taken by Sir Hari Singh Gour.]

Sir, my Honourable friend complained that my earlier speech was dull. I fear, Sir, that a fair analysis of a situation may often appear a little dull ; at any rate I can assure my Honourable friend that I did not find his speech dull. (Laughter.) He sympathised with me in what he described as the experience of calamity that I had undergone in this House during the last five days. Sir, the debate did not strike me in that way. The debate has covered a very wide range of subjects. It is natural enough that at this critical hour of India's history the House should express its opinion freely and frankly, as Honourable Members opposite and Honourable Members on this side have done, on the momentous issues that confront us in India at the present time—issues which, though they or some of them may not be directly connected with this Bill, yet do naturally come to our minds when we are discussing this measure. I think, Sir, it is an advantage both to the Government and to Honourable Members opposite that we have been able to review in a general way the present difficult political situation in the country. Now, before coming to the main questions that face the House, I would like to deal first of all with what I myself am inclined to regard as really a minor issue, and that is the question of circulation. I was accused by my Honourable friend, Mr. Anklesaria, of adopting an unaccommodating attitude with regard to this question of circulation. I confess I look upon it, Sir, mainly as a matter of machinery and not of principle. I gave certain facts to the House which I need hardly repeat in detail, which suggested that there really was no time for any effective circulation of this Bill unless the whole programme of the Government for proceeding with this measure were to be interrupted. Our idea, Sir, is that the Select Committee—if the House agrees to appoint a Committee—should meet on the 24th October. Now I maintain that it is evident that no opinions of any value can be obtained, collected, printed and placed at the disposal of the Select Committee before the 24th of October. In connection with certain remarks I made when referring to this matter in my previous speech, it was suggested by the Honourable the Leader of the Independent Party that I had in fact admitted that public opinion was altogether against this measure. What I said, Sir, was that we could

all form a pretty clear idea of the kind of public opinion that would be elicited. I do not for a moment suggest that Honourable Members opposite, on a matter of this enormous public importance and interest, are so little in touch with their constituents that it is necessary for them to elicit the views of their constituency through a Government agency on this vital issue. (Laughter.) Nor again are Honourable Members on this side of the House unaware of the views that would be taken by their constituents,—and the Government of India are very well aware of the views of the Local Governments. Therefore, Sir, I suggest that no practical object is to be secured by the circulation of this Bill.

Now, Sir, it has been suggested that the powers we seek are not intended for the obvious purpose which I described in my opening speech but are intended in some way to impede the coming of the new constitution. That, Sir, is the last thing that we have in our minds. What we feel, on the contrary, is that these powers are intended to keep under restraint the civil disobedience movement and that, in fact, nothing could be more disastrous to the new constitution than the success of civil disobedience for it would deal, in my own view, a deadly blow to the working of any free constitution in the future. It is a method which, as I suggested in this House yesterday, like terrorism, if successful, will be applied to other conditions. Now, Sir, the Honourable the Leader of the Nationalist Party made a point which has no doubt been present to the mind of many Honourable Members. He said that repression is not a cure. If by that phrase he refers to the broad political problem, if he says that repression is not a cure for political unrest, for political aspirations and for the rising tide of political self-consciousness, then, Sir, I entirely agree with him, and His Majesty's Government entirely agree with him. Repression in that sense is not and never has been our policy. But, Sir, we must distinguish between concessions to political development—those concessions which will be embodied in the new Government of India Act, the whole of that policy which is centred round the Round Table Conference and the discussions that have been proceeding for the last two years and the fruition of which we hope to see in the coming year—we must distinguish between concessions of that kind and concessions to practical lawlessness. To fail to take the measures which we consider necessary to deal with lawlessness in the country arising from the civil disobedience movement would, in my opinion, be a serious failure of our duty. It has been suggested that the whole of this civil disobedience movement is a necessary reaction against a particular policy, an illiberal policy, in the matter of political reform that we are following. Sir, I think if Honourable Members will cast their minds fairly back over the last two or three years they will see that is not so. I have a particular event very clearly fixed in my own mind. It happened in the month of December 1929. The Viceroy, Lord Irwin, had announced a month or two before with the consent of His Majesty's Government the policy of the Round Table Conference and it was hoped that the Congress would accept the invitation that had been offered to it. But in December they turned their back on that invitation. I have always regarded it as an almost wanton action, at any rate a disaster to India. They turned their back on that invitation and within the next few months they launched the first movement of civil disobedience in order to coerce His Majesty's Government into granting a particular form of independence or substance of independence or shadow of independence or whatever it might have,

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been Well Sir, I have always regarded that decision as one of the tragedies in the recent history of India, and I sometimes wonder what it was that induced the leaders of the Congress at that time to take that action. My Honourable friend Mr. James in the course of this debate called attention to a rather striking sentence in Mr. Gandhi's recent letter to Sir Samuel Hoare. He was talking about how it was possible to arrest the embittering of relations between the two peoples and he said : " Not by stopping civil disobedience ; for me it is an article of faith ". Well, Sir, it is possible that that gives the clue to the action that has been pursued in the last two years. Where faith comes in, reason goes out ; and it may be that Mr. Gandhi has been hypnotised by the previous success of a particular method. But, Sir, in my judgment we must prove to the people that civil disobedience is not a panacea for political problems. We must show them that it is a discredited political weapon and we must endeavour to break that faith. (Applause.) What, indeed, are the Congress fighting for at the present time ?

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

It was a question that was put to me in the course of the debate and I said it was a question that should be put to the Congress. Indeed, I think that the Congress themselves find it hard to explain what they are fighting for. In fact, we hear what I venture to regard as the topsy-turvy argument that they are fighting against the Ordinances. Now, Sir, how did this second civil disobedience movement start ? What happened was that just before that, two very dangerous movements had developed. I do not say that they were definitely civil disobedience movements, but they were movements of direct action which could not possibly be ignored by Government. We have heard from some of the Honourable Members of the United Provinces what in fact the no-rent movement in the United Provinces meant. When Government took the action which was necessary in order to deal with those movements, the Congress said, unless you stop that action, we start civil disobedience. Now, Sir, it was not as one Honourable Member said just now that they were fighting for responsible Government. It was not a protest against the conclusions of the Second Round Table Conference, the Conference in which the Congress took part. It was an attempt to back up and to support those two dangerous movements and that, Sir, was a challenge that no Government in this country could possibly afford to ignore, and if they did ignore it, they would be betraying the interests of the country. (Applause.) It has been argued that the powers which we have put into this Bill are powers that will provoke the people and will strengthen the opposition. But, Sir, I think some of the critics are apt to forget that those powers have been in existence and in fact much more drastic powers than are included in the Bill, that those powers have been in existence for nine months and our judgment of the situation is that they have had precisely the opposite effect. Many Honourable Members themselves have suggested that it is not necessary for us to have the powers that are included in the Bill because the civil disobedience movement, as a result of the operation of the Ordinances, is in a state of inanition. I am not myself prepared to go as far as that, but I do think, Sir, that if those powers are maintained and are applied with caution and moderation, we may in a comparatively brief time see the end of the civil disobedience movement. But if we

weaken in our attitude now, I fear there may be a third revival. Now, Sir, various Honourable Members have made statements of various abuses which they maintain have been experienced during the operation of the Ordinances. I admit, Sir, that in a country-wide movement of this kind, there must be occasional excesses of authority. But I maintain that looked at broadly, the Government servants, often in the face of very serious provocation, have acted with commonsense and with restraint. (Applause.) Certain Honourable Members have given us their carefully treasured extracts (Laughter), I too have similar extracts (Laughter), when I say similar, I mean for making out my case (Renewed Laughter) refuting the allegations, but I do not propose to inflict them on the House. I do not think that this question can be decided by charges and counter charges. We have before us broad issues and those issues have to be faced broadly.

I come now, and I propose to deal with it quite briefly, to the argument which was developed by my Honourable friend, Mr. Puri, whom I am sorry not to see in his place this evening, for he certainly contributed most generously to the length of this debate, and I should have liked him to hear the concluding portions of it. Mr. Puri's indignation at the Government in not referring their original proposals to this House was only equalled by his indignation that they are now referring these proposals. His attitude might be summed up in three words, in fact I think he used them himself, 'why ask us' Well, Sir, one of the advantages of having an Opposition which speaks with many mouths is that they sometimes answer each others arguments (Laughter) and among others the Honourable the Leader of the Independent Party demolished the arguments of Mr. Puri. Indeed, I think it is clear that whether we like it or not, it is our constitutional duty, if we want to get these powers, to put our Bill before this House and ask them to grant it.

I come now to the question of the Select Committee. Various questions have been put to us in the course of the debate as to what is the principle of this Bill. My Honourable colleague, the Honourable the Law Member, gave the answer which I think is the only answer that can be given, that the principle of the Bill is to counteract certain definite manifestations of the civil disobedience movement. My other Honourable colleague, the Leader of the House, whose skill and ability throughout this Session has been so marked, when speaking on this motion yesterday went through a number of the clauses of this Bill and established, to a large extent from his own personal experience, the fact that the provisions of this Bill deal, one after the other, with certain serious manifestations that have been experienced in the course of the civil disobedience movement. Our object, Sir, is to keep those in check.

Now, Sir, various Honourable Members of this House have done me the compliment of suggesting that in Select Committee I would show a very accommodating spirit. I hope, Sir, that neither I nor other Members of the Government would fail to meet in a fair way fair arguments. But, Sir, I do not wish to secure from this House any spurious reputation. I must make it clear that Government would not be prepared to accept as fulfilling the object of this Bill any pale shadow of the provisions which we have inserted. We must be satisfied that the efficacy of the essential powers is not impaired. Within that limitation if we

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can be shown that certain powers have been too widely or mistakenly drafted we are perfectly prepared to argue that matter out in Select Committee, and I hope, reach a satisfactory agreement.

Another point that has been raised continuously in the course of the debate is that of the duration of the Bill. It has been said that we are endeavouring to deal with an emergency and that it is not proper that provisions intended for that purpose should be placed permanently on the Statute-book. When I introduced this motion, Sir, I admitted that various views might be held about the duration of the measure. That is an essential point which we shall have to discuss with Honourable Members opposite in Select Committee.

And now, Sir, I have little more to say. Many who may vote against us this afternoon, I think, will yet believe that this movement is not in the interests of their country and that measures should and must be taken to check it. I would hope, Sir, that on both sides of the House we should all have the courage to do what is right, however difficult and however unpleasant. It is a responsibility thrown on us by the constitution, and I believe it is a responsibility that this House will not reject.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : In putting the question to the House the Chair proposes to take the third amendment first which proposes to circulate the Bill for eliciting opinion thereon by the 1st January 1933. The next question which the Chair will put will be the amendment of Mr. Ramakrishna Reddi which proposes to elicit opinion by the 7th November, 1932. And the third question which will be put is Mr. Anklesaria's amendment restricting the time for circulation to the 1st November, 1932.

The question which I have now to put is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st January, 1933.”

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question which I have now to put is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 7th November, 1932.”

The Assembly divided :

AYES—32.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir
Anklesaria, Mr. N. N.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bhuput Sing, Mr.
Chinoy, Mr. Rahimtoola M.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Geur, Sir Hari Singh.
Gunjal, Mr. N. R.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Maswood Ahmad, Mr. M.
Misra, Mr. B. N.
Mitra, Mr. S. O.

Mody, Mr. H. P.
Munshi, Mr. Jehangir K.
Murtuza Saheb Bahadur, Maulvi
Sayyid.
Neogy, Mr. K. C.
Pandian, Mr. B. Rajaram.
Pandit, Rao Bahadur S. R.
Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sadiq Hasan, Shaikh.
Sarda, Diwan Bahadur Harbilas.
Shafee Daoodi, Maulvi Muhammad.
Singh, Mr. Gaya Prasad.

NOES—63.

Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Ahmed, Mr. K.
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.
 Amir Husain, Khan Bahadur Saiyid.
 Anwar-ul-Azim, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Banerji, Mr. Rajnarayan.
 Bartley, Mr. J.
 Clow, Mr. A. G.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Deo, Thakur Mahendra Nath Shah.
 Fazal Haq Piracha, Shaikh.
 Fazi-i-Ilahi, Khan Sahib Shaikh.
 Fox, Mr. H. B.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut.-Colonel Sir Henry.
 Graham, Sir Lancelot.
 Greenfield, Mr. H. C.
 Gwynne, Mr. C. W.
~~Hag~~, The Honourable Mr. H. G.
 Hezlett, Mr. J.
 Hudson, Sir Leslie.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar.
 Lal Chand, Honorary Captain Rao Bahadur Chaudhri.
 Mackenzie, Mr. R. T. H.
 Macqueen, Mr. P.

Metcalfe, Mr. H. A. F.
 Milligan, Mr. J. A.
 Mitter, The Honourable Sir Brojendra.
 Morgan, Mr. G.
 Muazzam Sahib Bahadur, Mr. Muhammad.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Naydu, Rao Bahadur B. V. Sri Hari Rao.
 Nichols, Mr. H. L.
 Nihal Singh, Sardar.
 Parsons, The Honourable Sir Alan.
 Rafiuddin Ahmad, Khan Bahadur Maulvi.
 Rajah, Rao Bahadur M. C.
 Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Russell, Lieut.-Colonel A. J. H.
 Ryan, Mr. T.
 Sahi, Mr. Ram Prashad Narayan.
 Scott, Mr. J. Ramsay.
 Shah Nawaz, Mian Muhammad.
 Sher Muhammad Khan Gakhar, Captain.
 Sorley, Mr. H. T.
 Suhrawardy, Sir Abdulla-al-Mámūn.
 Tin Tüt, Mr.
 Tottenham, Mr. G. R. F.
 Wajihuddin, Khan Bahadur Haji.
 Wilayatullah, Khan Bahadur H. M.
 Yakub, Sir Muhammad.
 Yamin Khan, Mr. Muhammad.
 Zulfikar Ali Khan, Sir.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st of November, 1932.”

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola) : The question is :

“ That the Bill to supplement the Criminal Law be referred to a Select Committee consisting of Mr. Muhammad Yamin Khan, Mr. S. C. Sen, Mr. Gaya Prasad Singh, Mr. S. G. Jog, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Muhammad Azhar Ali, Mr. B. V. Jadhav, Sir Leslie Hudson, Sir Muhammad Yakub, Mr. N. N. Anklesaria, Captain Rao Bahadur Chaudhri Lal Chand, and the Mover, with instructions to report on or before the 7th November, 1932, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The Assembly divided :

AYES—64.

Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Ahmed, Mr. K.
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.
 Amir Husain, Khan Bahadur Saiyid.
 Anwar ul-Aziz, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Banerji, Mr. Rajnarayan.
 Bartley, Mr. J.
 Clow, Mr. A. G.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Deo, Thakur Mahendra Nath Shah.
 Fazal Haq Piraha, Shaikh.
 Fazl-i-Ilahi, Khan Sahib Shaikh.
 Fox, Mr. H. B.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut-Colonel Sir Henry.
 Graham, Sir Lancelot.
 Greenfield, Mr. H. C.
 Gwynne, Mr. C. W.
 Haig, The Honourable Mr. H. G.
 Hezlett, Mr. J.
 Hudson, Sir Leslie.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar.
 Lal Chand, Honorary Captain Rao Bahadur Chaudhri.
 Mackenzie, Mr. R. T. H.
 Macqueen, Mr. P.

Metcalfe, Mr. H. A. F.
 Milligan, Mr. J. A.
 Mitter, The Honourable Sir Brojendra.
 Morgan, Mr. G.
 Muazzam Sahib Bahadur, Mr. Muhammad.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Naydu, Rao Bahadur B. V. Sri Hari Rao.
 Nichols, Mr. H. L.
 Nihal Singh, Sardar.
 Parsons, The Honourable Sir Alan.
 Rafiuddin Ahmad, Khan Bahadur Maulvi.
 Rajah, Rao Bahadur M. C.
 Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Russell, Lieut-Colonel A. J. H.
 Ryan, Mr. T.
 Sahi, Mr. Ram Prashad Narayan.
 Scott, Mr. J. Ramsay.
 Shah Nawaz, Mian Muhammad.
 Sher Muhammad Khan Gakhar, Captain.
 Singh, Kumar Gupteshwar Prasad.
 Sorley, Mr. H. T.
 Suhrawardy, Sir Abdulla-al-Mámūn.
 Tin Tut, Mr.
 Tottenham, Mr. G. R. F.
 Wajihuddin, Khan Bahadur Haji.
 Wilayatullah, Khan Bahadur H. M.
 Yakub, Sir Muhammad.
 Yamin Khan, Mr. Muhammad.
 Zulfikar Ali Khan, Sir.

NOES—32.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Anklesaria, Mr. N. N.
 Azhar Ali, Mr. Muhammad.
 Badi uz Zaman, Maulvi.
 Bhuput Singh, Mr.
 Chinoy, Mr. Rahimtoola M.
 Das Mr. B.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Gunjal, Mr. N. R.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Maswood Ahmad, Mr. M.
 Misra, Mr. B. N.

Mitra, Mr. S. C.
 Mody, Mr. H. P.
 Munshi, Mr. Jehangir K.
 Murtuza Saheb Bahadur, Maulvi Sayyid.
 Neogy, Mr. K. C.
 Pandian, Mr. B. Rajaram.
 Pandit, Rao Bahadur S. R.
 Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Ranga Iyer, Mr. C. S.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Sadiq Hasan, Shaikh.
 Sarda, Diwan Bahadur Harbilas.
 Shafee Daoodi, Maulvi Muhammad.
 Singh, Mr. Gaya Prasad.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Monday, the 7th November, 1932, in New Delhi.

CORRIGENDA.

In the Legislative Assembly Debates—

1. Vol. IV, No. 2, dated the 6th September, 1932—

(i) page 115, against item 10, column 2—

(a) line 12 from the bottom, *for* the word “sotcks” *read* “stocks”;

(b) line 9 from the bottom, *for* the words “and are not taken” *read* “and are now taken”;

(c) line 8 from the bottom, *for* the word “dimunition” *read* “diminution”.

(ii) page 123, against item 47, column 2, line 3, *for* the words “to a new” *read* “to all new”.

(iii) page 129, against item 78, column 2, line 6 of the paragraph, *for* the words “India Stores Department” *read* “Indian Stores Department”.

2. Vol. IV, No. 6, dated the 13th September, 1932—

(i) page 539, line 9 from the bottom and page 540, line 11 from the bottom, *for* the words “Dr. Ziauddin Ahmad (on behalf of Khan Bahadur Haji Wajihuddin)” *read* “Khan Bahadur Haji Wajihuddin”.

(ii) page 559, line 16, *for* the word “Marks” *read* “Mark”.

(iii) page 565, line 17 from the bottom, *for* the word “member”, where it occurs *for* the second time, *read* “number”.

(iv) page 580, line 17, *for* the word “highly” *read* “high”.

3. Vol. IV, No. 7, dated the 14th September, 1932, page 641, in the entry relating to M. S. Branch in column 11, *for* “2” *read* “2§”.

4. Vol. V, No. 2, dated the 21st September, 1932—

(i) page 1060, line 18 from the bottom, *for* the word “this” *read* “his”.

(ii) page 1079, line 20 from the bottom, *for* the words “working at Army Headquarters and at Summer Hill” *read* “working at Army Headquarters”.

5. Vol. V, No. 3, dated the 22nd September, 1932—

(i) page 1163, line 14 from the bottom, *for* “to leave 4 P.M.” *read* “to leave at 4 P.M.”.

(ii) page 1176, in the subject-heading to starred question No. 657, *for* the words “Enforcement of Contractors” *read* “Enforcement on Contractors”.

(iii) page 1185, line 8 from the bottom, *for* the words “Dr. Ziauddin Ahmad: The Honourable gentleman may give his” *read* “Dr. Ziauddin Ahmad: I wish you good luck. The point is this,”.

6. Vol. V, No. 8, dated the 29th September, 1932, page 1599, line 6 from the bottom, *for* the words “the Government should at least” *read* “the Government should have at least”.

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